

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 816

FINAL READING

Introduced by Fischer, 43.

Read first time January 08, 2010

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicle industry regulation; to  
2 amend sections 25-2602.01, 28-1316, 44-3526, 60-1401.01,  
3 60-1402, 60-1403, 60-1403.01, 60-1404, 60-1405, 60-1406,  
4 60-1407, 60-1407.01, 60-1407.02, 60-1407.03, 60-1407.04,  
5 60-1411.03, 60-1415, 60-1415.01, 60-1417.02, 60-1420,  
6 60-1421, 60-1422, 60-1427, 60-1428, 60-1430, 60-1430.01,  
7 60-1430.02, 60-1432, 60-1436, 60-1437, 60-1438,  
8 60-1438.01, 60-1440, 60-2602, 60-2603, 60-2604, and  
9 71-4603, Reissue Revised Statutes of Nebraska, sections  
10 60-194, 60-373, 60-375, 60-380, 60-381, 60-3,116,  
11 60-1411.01, 60-1411.02, and 60-2701, Revised Statutes  
12 Cumulative Supplement, 2008, sections 60-144, 60-164,  
13 and 60-1401.02, Revised Statutes Supplement, 2009, and

1 section 60-1409, Reissue Revised Statutes of Nebraska, as  
2 amended by section 36, Legislative Bill 3, One Hundred  
3 First Legislature, First Special Session, 2009; to name  
4 an act; to transfer definitions; to define and redefine  
5 terms; to change provisions relating to licenses and  
6 franchises; to delete obsolete provisions; to prohibit  
7 certain acts; to harmonize provisions; to repeal the  
8 original sections; and to declare an emergency.

9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 25-2602.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           25-2602.01 (a) A written agreement to submit any existing  
4 controversy to arbitration is valid, enforceable, and irrevocable  
5 except upon such grounds as exist at law or in equity for the  
6 revocation of any contract.

7           (b) A provision in a written contract to submit to  
8 arbitration any controversy thereafter arising between the parties  
9 is valid, enforceable, and irrevocable, except upon such grounds as  
10 exist at law or in equity for the revocation of any contract, if  
11 the provision is entered into voluntarily and willingly.

12           (c) The Uniform Arbitration Act applies to arbitration  
13 agreements between employers and employees or between their  
14 respective representatives.

15           (d) Contract provisions agreed to by the parties to a  
16 contract control over contrary provisions of the act other than  
17 subsections (e) and (f) of this section.

18           (e) Subsections (a) and (b) of this section do not apply  
19 to a claim for workers' compensation.

20           (f) Subsection (b) of this section does not apply to:

21           (1) A claim arising out of personal injury based on tort;

22           (2) A claim under the Nebraska Fair Employment Practice  
23 Act;

24           (3) Any agreement between parties covered by ~~sections~~  
25 ~~60-1401.01 to 60-1440;~~ the Motor Vehicle Industry Regulation Act;

1 and

2 (4) Except as provided in section 44-811, any agreement  
3 concerning or relating to an insurance policy other than a contract  
4 between insurance companies including a reinsurance contract.

5 (g) When a conflict exists, the Uniform Arbitration Act  
6 shall not apply to the Uniform Act on Interstate Arbitration and  
7 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to  
8 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329.

9 Sec. 2. Section 28-1316, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 28-1316 (1) A person commits the offense of unlawful use  
12 of locks and keys if he or she:

13 (a) Sells, offers to sell, or gives to any person other  
14 than a law enforcement agency, dealer licensed under the ~~provisions~~  
15 ~~of Chapter 60, article 14, Motor Vehicle Industry Regulation Act,~~  
16 motor vehicle manufacturer, or person regularly carrying on the  
17 profession of a locksmith any try-out key, manipulation key, wiggle  
18 key, or any other device designed to be used in place of the normal  
19 change key of any motor vehicle; or

20 (b) Has in his or her possession any try-out key, wiggle  
21 key, manipulation key, or any other device designed to be used in  
22 place of the normal change key of any motor vehicle unless he or  
23 she is a locksmith, locksmith manufacturer, dealer licensed under  
24 the ~~provisions of Chapter 60, article 14, Motor Vehicle Industry~~  
25 ~~Regulation Act,~~ motor vehicle manufacturer, or law enforcement

1 agency; or

2 (c) Duplicates a master key for anyone unless written  
3 permission has been granted by the person who has legal control of  
4 the master key. All master keys shall be stamped with the words  
5 DO NOT DUPLICATE. All duplications of master keys shall also be  
6 stamped with the words DO NOT DUPLICATE.

7 (2) Nothing in subsection (1) of this section shall be  
8 construed to make it unlawful if:

9 (a) The owner of two or more vehicles possesses a change  
10 key that can be used on two or more vehicles that he or she owns;  
11 or

12 (b) Such owner changes the locks on such vehicle so that  
13 they are keyed alike; or

14 (c) Any person makes or duplicates the original change  
15 keys for such an owner; or

16 (d) Anyone stamps any other type of key with the words DO  
17 NOT DUPLICATE.

18 (3) Unlawful use of locks and keys is a Class III  
19 misdemeanor.

20 Sec. 3. Section 44-3526, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 44-3526 The Motor Vehicle Service Contract Reimbursement  
23 Insurance Act shall not apply to motor vehicle service contracts  
24 (1)(a) issued by a motor vehicle manufacturer or importer for  
25 the motor vehicles manufactured or imported by that manufacturer

1 or importer and (b) sold by a franchised motor vehicle dealer  
2 licensed pursuant to ~~Chapter 60~~, ~~article 14~~, the Motor Vehicle  
3 Industry Regulation Act or (2) issued and sold directly by a motor  
4 vehicle manufacturer or importer licensed pursuant to ~~Chapter 60~~,  
5 ~~article 14~~, the Motor Vehicle Industry Regulation Act for the motor  
6 vehicles manufactured or imported by that manufacturer or importer.

7 Sec. 4. Section 60-144, Revised Statutes Supplement,  
8 2009, is amended to read:

9 60-144 (1)(a) Except as provided in subdivisions (b),  
10 (c), and (d) of this subsection, the county clerk or designated  
11 county official shall be responsible for issuing and filing  
12 certificates of title for vehicles, and each county shall issue  
13 and file such certificates of title using the vehicle titling  
14 and registration computer system prescribed by the department.  
15 Application for a certificate of title shall be made upon a form  
16 prescribed by the department. All applications shall be accompanied  
17 by the appropriate fee or fees.

18 (b) The department shall issue and file certificates  
19 of title for Nebraska-based fleet vehicles. Application for a  
20 certificate of title shall be made upon a form prescribed by  
21 the department. All applications shall be accompanied by the  
22 appropriate fee or fees.

23 (c) The department shall issue and file certificates of  
24 title for state-owned vehicles. Application for a certificate of  
25 title shall be made upon a form prescribed by the department. All

1 applications shall be accompanied by the appropriate fee or fees.

2 (d) The department shall issue certificates of title  
3 pursuant to section 60-142.06. Application for a certificate of  
4 title shall be made upon a form prescribed by the department. All  
5 applications shall be accompanied by the appropriate fee or fees.

6 (2) If the owner of an all-terrain vehicle or a minibike  
7 resides in Nebraska, the application shall be filed with the county  
8 clerk or designated county official of the county in which the  
9 owner resides.

10 (3) (a) Except as otherwise provided in subdivision (b) of  
11 this subsection, if a vehicle, other than an all-terrain vehicle or  
12 a minibike, has situs in Nebraska, the application shall be filed  
13 with the county clerk or designated county official of the county  
14 in which the vehicle has situs.

15 (b) If a motor vehicle dealer licensed under ~~Chapter 60,~~  
16 ~~article 14,~~ the Motor Vehicle Industry Regulation Act applies for  
17 a certificate of title for a vehicle, the application may be filed  
18 with the county clerk or designated county official of any county.

19 (4) If the owner of a vehicle is a nonresident, the  
20 application shall be filed in the county in which the transaction  
21 is consummated.

22 (5) The application shall be filed within thirty days  
23 after the delivery of the vehicle.

24 (6) All applicants registering a vehicle pursuant to  
25 section 60-3,198 shall file the application for a certificate

1 of title with the Division of Motor Carrier Services of the  
2 department. The division shall deliver the certificate to the  
3 applicant if there are no liens on the vehicle. If there are  
4 any liens on the vehicle, the division shall deliver or mail the  
5 certificate of title to the holder of the first lien on the day of  
6 issuance. All certificates of title issued by the division shall be  
7 issued in the manner prescribed for the county clerk or designated  
8 county official in section 60-152.

9           Sec. 5. Section 60-164, Revised Statutes Supplement,  
10 2009, is amended to read:

11           60-164 (1) The department shall implement an electronic  
12 title and lien system for vehicles no later than January 1, 2011.  
13 The director shall designate the date for the implementation of  
14 the system. Beginning on the implementation date, the holder of  
15 a security interest, trust receipt, conditional sales contract,  
16 or similar instrument regarding a vehicle may file a lien  
17 electronically as prescribed by the department. Beginning on  
18 the implementation date, upon receipt of an application for a  
19 certificate of title for a vehicle, any lien filed electronically  
20 shall become part of the electronic certificate of title record  
21 created by the county clerk, designated county official, or  
22 department maintained on the electronic title and lien system.  
23 Beginning on the implementation date, if an application for  
24 a certificate of title indicates that there is a lien or  
25 encumbrance on a vehicle or if a lien or notice of lien has been

1 filed electronically, the department shall retain an electronic  
2 certificate of title record and shall note and cancel such liens  
3 electronically on the system. The department shall provide access  
4 to the electronic certificate of title records for motor vehicle  
5 dealers and lienholders who participate in the system by a method  
6 determined by the director.

7 (2) Except as provided in section 60-165, the provisions  
8 of article 9, Uniform Commercial Code, shall never be construed  
9 to apply to or to permit or require the deposit, filing,  
10 or other record whatsoever of a security agreement, conveyance  
11 intended to operate as a mortgage, trust receipt, conditional sales  
12 contract, or similar instrument or any copy of the same covering a  
13 vehicle. Any mortgage, conveyance intended to operate as a security  
14 agreement as provided by article 9, Uniform Commercial Code, trust  
15 receipt, conditional sales contract, or other similar instrument  
16 covering a vehicle, if such instrument is accompanied by delivery  
17 of such manufacturer's or importer's certificate and followed by  
18 actual and continued possession of the same by the holder of  
19 such instrument or, in the case of a certificate of title, if a  
20 notation of the same has been made electronically as prescribed in  
21 subsection (1) of this section or by the county clerk, designated  
22 county official, or department on the face of the certificate of  
23 title or on the electronic certificate of title record, shall be  
24 valid as against the creditors of the debtor, whether armed with  
25 process or not, and subsequent purchasers, secured parties, and

1 other lienholders or claimants but otherwise shall not be valid  
2 against them, except that during any period in which a vehicle is  
3 inventory, as defined in section 9-102, Uniform Commercial Code,  
4 held for sale by a person or corporation that is required to be  
5 licensed as provided in ~~Chapter 60,~~ ~~article 14,~~ the Motor Vehicle  
6 Industry Regulation Act and is in the business of selling such  
7 vehicles, the filing provisions of article 9, Uniform Commercial  
8 Code, as applied to inventory, shall apply to a security interest  
9 in such vehicle created by such person or corporation as debtor  
10 without the notation of lien on the certificate of title. A buyer  
11 of a vehicle at retail from a dealer required to be licensed as  
12 provided in ~~Chapter 60,~~ ~~article 14,~~ the Motor Vehicle Industry  
13 Regulation Act shall take such vehicle free of any security  
14 interest. A purchase-money security interest, as defined in section  
15 9-103, Uniform Commercial Code, in a vehicle is perfected against  
16 the rights of judicial lien creditors and execution creditors on  
17 and after the date the purchase-money security interest attaches.

18 (3) Subject to subsections (1) and (2) of this section,  
19 all liens, security agreements, and encumbrances noted upon a  
20 certificate of title or an electronic certificate of title record  
21 and all liens noted electronically as prescribed in subsection (1)  
22 of this section shall take priority according to the order of time  
23 in which the same are noted by the county clerk, designated county  
24 official, or department. Exposure for sale of any vehicle by the  
25 owner thereof with the knowledge or with the knowledge and consent

1 of the holder of any lien, security agreement, or encumbrance on  
2 such vehicle shall not render the same void or ineffective as  
3 against the creditors of such owner or holder of subsequent liens,  
4 security agreements, or encumbrances upon such vehicle.

5 (4) The holder of a security agreement, trust  
6 receipt, conditional sales contract, or similar instrument, upon  
7 presentation of such instrument to the department, or to any county  
8 clerk or designated county official, together with the certificate  
9 of title and the fee prescribed for notation of lien, may have  
10 a notation of such lien made on the face of such certificate of  
11 title. The owner of a vehicle may present a valid out-of-state  
12 certificate of title issued to such owner for such vehicle with a  
13 notation of lien on such certificate of title and the prescribed  
14 fee to the county clerk, designated county official, or department  
15 and have the notation of lien made on the new certificate of title  
16 issued pursuant to section 60-144 without presenting a copy of the  
17 lien instrument. The county clerk or designated county official or  
18 the department shall enter the notation and the date thereof over  
19 the signature of the person making the notation and the seal of the  
20 office. If noted by a county clerk or designated county official,  
21 he or she shall on that day notify the department which shall note  
22 the lien on its records. The county clerk or designated county  
23 official or the department shall also indicate by appropriate  
24 notation and on such instrument itself the fact that such lien has  
25 been noted on the certificate of title.

1           (5) A transaction does not create a sale or a security  
2 interest in a vehicle, other than an all-terrain vehicle or a  
3 minibike, merely because it provides that the rental price is  
4 permitted or required to be adjusted under the agreement either  
5 upward or downward by reference to the amount realized upon sale or  
6 other disposition of the vehicle.

7           (6) The county clerk or designated county official or  
8 the department, upon receipt of a lien instrument duly signed by  
9 the owner in the manner prescribed by law governing such lien  
10 instruments together with the fee prescribed for notation of lien,  
11 shall notify the first lienholder to deliver to the county clerk  
12 or designated county official or the department, within fifteen  
13 days after the date of notice, the certificate of title to permit  
14 notation of such other lien and, after notation of such other lien,  
15 the county clerk or designated county official or the department  
16 shall deliver the certificate of title to the first lienholder.  
17 The holder of a certificate of title who refuses to deliver a  
18 certificate of title to the county clerk or designated county  
19 official or the department for the purpose of showing such other  
20 lien on such certificate of title within fifteen days after the  
21 date of notice shall be liable for damages to such other lienholder  
22 for the amount of damages such other lienholder suffered by reason  
23 of the holder of the certificate of title refusing to permit the  
24 showing of such lien on the certificate of title.

25           (7) Beginning on the implementation date of the

1 electronic title and lien system, upon receipt of a subsequent  
2 lien instrument duly signed by the owner in the manner prescribed  
3 by law governing such lien instruments or a notice of lien filed  
4 electronically, together with an application for notation of  
5 the subsequent lien, the fee prescribed in section 60-154, and,  
6 if a printed certificate of title exists, the presentation of  
7 the certificate of title, the county clerk, designated county  
8 official, or department shall make notation of such other lien.  
9 If the certificate of title is not an electronic certificate of  
10 title record, the county clerk, designated county official, or  
11 department, upon receipt of a lien instrument duly signed by  
12 the owner in the manner prescribed by law governing such lien  
13 instruments together with the fee prescribed for notation of lien,  
14 shall notify the first lienholder to deliver to the county clerk,  
15 designated county official, or department, within fifteen days  
16 after the date of notice, the certificate of title to permit  
17 notation of such other lien. After such notation of lien, the  
18 lien shall become part of the electronic certificate of title  
19 record created by the county clerk, designated county official, or  
20 department which is maintained on the electronic title and lien  
21 system. The holder of a certificate of title who refuses to deliver  
22 a certificate of title to the county clerk, designated county  
23 official, or department for the purpose of noting such other lien  
24 on such certificate of title within fifteen days after the date  
25 when notified to do so shall be liable for damages to such other

1 lienholder for the amount of damages such other lienholder suffered  
2 by reason of the holder of the certificate of title refusing to  
3 permit the noting of such lien on the certificate of title.

4 (8) When a lien is discharged, the holder shall, within  
5 fifteen days after payment is received, note a cancellation of the  
6 lien on the certificate of title over his, her, or its signature  
7 and deliver the certificate of title to the county clerk or  
8 designated county official or the department, which shall note the  
9 cancellation of the lien on the face of the certificate of title  
10 and on the records of such office. If delivered to a county clerk  
11 or designated county official, he or she shall on that day notify  
12 the department which shall note the cancellation on its records.  
13 The county clerk or designated county official or the department  
14 shall then return the certificate of title to the owner or as  
15 otherwise directed by the owner. The cancellation of lien shall be  
16 noted on the certificate of title without charge. For an electronic  
17 certificate of title record, the lienholder shall, within fifteen  
18 days after payment is received when such lien is discharged,  
19 notify the department electronically or provide written notice of  
20 such lien release, in a manner prescribed by the department, to  
21 the county clerk, designated county official, or department. The  
22 department shall note the cancellation of lien and, if no other  
23 liens exist, issue the certificate of title to the owner or as  
24 otherwise directed by the owner or lienholder. If the holder of  
25 the title cannot locate a lienholder, a lien may be discharged

1 ten years after the date of filing by presenting proof that thirty  
2 days have passed since the mailing of a written notice by certified  
3 mail, return receipt requested, to the last-known address of the  
4 lienholder.

5 Sec. 6. Section 60-194, Revised Statutes Cumulative  
6 Supplement, 2008, is amended to read:

7 60-194 No licensed motor vehicle dealer shall have in his  
8 or her possession as inventory for sale any used motor vehicle of  
9 an age of less than twenty-five years for which the dealer does not  
10 have in his or her possession the transferor's statement required  
11 by section 60-192 unless a certificate of title has been issued for  
12 such motor vehicle in the name of the dealer. Violation of sections  
13 60-190 to 60-196 shall be grounds for suspension or revocation of a  
14 motor vehicle dealer's license under the provisions of Chapter 60,  
15 article 14, Motor Vehicle Industry Regulation Act.

16 Sec. 7. Section 60-373, Revised Statutes Cumulative  
17 Supplement, 2008, is amended to read:

18 60-373 (1) Each licensed motor vehicle dealer or trailer  
19 dealer as defined in ~~section 60-1401.02~~ sections 38 and 49 of  
20 this act, respectively, doing business in this state, in lieu of  
21 registering each motor vehicle or trailer which such dealer owns  
22 of a type otherwise required to be registered, or any full-time  
23 or part-time employee or agent of such dealer may, if the motor  
24 vehicle or trailer displays dealer number plates:

25 (a) Operate or tow the motor vehicle or trailer upon

1 the highways of this state solely for purposes of transporting,  
2 testing, demonstrating, or use in the ordinary course and conduct  
3 of business as a motor vehicle or trailer dealer. Such use may  
4 include personal or private use by the dealer and personal or  
5 private use by any bona fide employee licensed pursuant to ~~Chapter~~  
6 ~~607~~ article 147, the Motor Vehicle Industry Regulation Act, if  
7 the employee can be verified by payroll records maintained at the  
8 dealership as ordinarily working more than thirty hours per week or  
9 fifteen hundred hours per year at the dealership;

10 (b) Operate or tow the motor vehicle or trailer upon the  
11 highways of this state for transporting industrial equipment held  
12 by the licensee for purposes of demonstration, sale, rental, or  
13 delivery; or

14 (c) Sell the motor vehicle or trailer.

15 (2) Each licensed manufacturer as defined in section  
16 ~~60-1401.02~~ 36 of this act which actually manufactures or assembles  
17 motor vehicles or trailers within this state, in lieu of  
18 registering each motor vehicle or trailer which such manufacturer  
19 owns of a type otherwise required to be registered, or any employee  
20 of such manufacturer may operate or tow the motor vehicle or  
21 trailer upon the highways of this state solely for purposes of  
22 transporting, testing, demonstrating to prospective customers, or  
23 use in the ordinary course and conduct of business as a motor  
24 vehicle or trailer manufacturer, upon the condition that any such  
25 motor vehicle or trailer display thereon, in the manner prescribed

1 in section 60-3,100, dealer number plates as provided for in  
2 section 60-3,114.

3 (3) In no event shall such plates be used on motor  
4 vehicles or trailers hauling other than automotive or trailer  
5 equipment, complete motor vehicles, or trailers which are inventory  
6 of such licensed dealer or manufacturer unless there is issued by  
7 the department a special permit specifying the hauling of other  
8 products. This section shall not be construed to allow a dealer  
9 to operate a motor vehicle or trailer with dealer number plates  
10 for the delivery of parts inventory. A dealer may use such motor  
11 vehicle or trailer to pick up parts to be used for the motor  
12 vehicle or trailer inventory of the dealer.

13 Sec. 8. Section 60-375, Revised Statutes Cumulative  
14 Supplement, 2008, is amended to read:

15 60-375 (1) A finance company which is licensed to  
16 do business in this state may, in lieu of registering each  
17 motor vehicle or trailer repossessed, upon the payment of a  
18 fee of ten dollars, make an application to the department  
19 for a repossession registration certificate and one repossession  
20 license plate. Additional pairs of repossession certificates and  
21 repossession license plates may be procured for a fee of ten  
22 dollars each. Repossession license plates may be used only for  
23 operating or towing motor vehicles or trailers on the highways for  
24 the purpose of repossession, demonstration, and disposal of such  
25 motor vehicles or trailers. The repossession certificate shall be

1 displayed on demand for any motor vehicle or trailer which has a  
2 repossession license plate. A finance company shall be entitled to  
3 a dealer license plate only in the event such company is licensed  
4 as a motor vehicle dealer or trailer dealer under ~~Chapter 60,~~  
5 article 14, the Motor Vehicle Industry Regulation Act.

6 (2) Repossession license plates shall be prefixed with a  
7 large letter R and be serially numbered from 1 to distinguish them  
8 from each other. Such license plates shall be displayed only on the  
9 rear of a repossessed motor vehicle or trailer.

10 Sec. 9. Section 60-380, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12 60-380 Any motor vehicle or trailer owned by a dealer  
13 licensed under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry  
14 Regulation Act and bearing other than dealer license plates shall  
15 be conclusively presumed not to be a part of the dealer's inventory  
16 and not for demonstration or sale and therefor not eligible for  
17 any exemption from taxes or fees applicable to motor vehicles or  
18 trailers with dealer license plates.

19 Sec. 10. Section 60-381, Revised Statutes Cumulative  
20 Supplement, 2008, is amended to read:

21 60-381 Whenever a manufacturer or dealer licensed under  
22 ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation Act  
23 maintains a branch or subagency, the manufacturer or dealer shall  
24 apply for a separate registration for such branch or subagency and  
25 shall pay therefor the fees provided in section 60-3,114 for the

1 registration of motor vehicles or trailers owned by or under the  
2 control of the manufacturer or dealer, and the determination of the  
3 department upon the question whether any establishment constitutes  
4 a branch or subagency, within the intent of this section, shall be  
5 conclusive. No manufacturer, dealer, or employee of a manufacturer  
6 or dealer shall cause or permit the display or other use of  
7 any license plate or certificate of registration which has been  
8 issued to such manufacturer or dealer except upon motor vehicles or  
9 trailers owned by such manufacturer or dealer.

10           Sec. 11. Section 60-3,116, Revised Statutes Cumulative  
11 Supplement, 2008, is amended to read:

12           60-3,116 (1) Any licensed dealer or manufacturer may,  
13 upon payment of an annual fee of two hundred fifty dollars, make  
14 an application, on a form approved by the Nebraska Motor Vehicle  
15 Industry Licensing Board, to the county treasurer or designated  
16 county official of the county in which his or her place of business  
17 is located for a certificate and one personal-use dealer license  
18 plate for the type of motor vehicle or trailer the dealer has been  
19 authorized by the Nebraska Motor Vehicle Industry Licensing Board  
20 to sell and demonstrate. Additional personal-use dealer license  
21 plates may be procured upon payment of an annual fee of two hundred  
22 fifty dollars each, subject to the same limitations as provided  
23 in section 60-3,114 as to the number of additional dealer license  
24 plates. A personal-use dealer license plate may be displayed on  
25 a motor vehicle having a gross weight including any load of six

1 thousand pounds or less belonging to the dealer, may be used in the  
2 same manner as a dealer license plate, and may be used for personal  
3 or private use of the dealer, the dealer's immediate family, or any  
4 bona fide employee of the dealer licensed pursuant to ~~Chapter 60,~~  
5 article 14, the Motor Vehicle Industry Regulation Act.

6 (2) Personal-use dealer license plates shall have the  
7 same design and shall be displayed as provided in sections 60-370  
8 and 60-3,100.

9 Sec. 12. Sections 60-1401.01 to 60-1440, this section,  
10 and sections 15 to 53 of this act shall be known and may be cited  
11 as the Motor Vehicle Industry Regulation Act.

12 Any amendments to the act shall apply to franchises  
13 subject to the act which are entered into, amended, altered,  
14 modified, renewed, or extended after the date of the amendments to  
15 the act except as otherwise specifically provided in the act.

16 Sec. 13. Section 60-1401.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 60-1401.01 (1) The Legislature finds and declares that  
19 the distribution and sales of motor vehicles, motorcycles, and  
20 trailers in the State of Nebraska vitally affects the general  
21 economy of the state, the public interest, the public welfare, and  
22 public safety and that in order to promote the public interest  
23 and the public welfare and in the exercise of its police power,  
24 it is necessary to regulate motor vehicle, motorcycle, and trailer  
25 dealers, manufacturers, distributors, and their representatives

1 doing business in the State of Nebraska.

2           (2) The Legislature further finds that the sales of  
3 motor vehicles, motorcycles, and trailers are involved to a large  
4 extent in a franchise system established between manufacturers  
5 and dealers and hereby declares that the sale of motor vehicles,  
6 motorcycles, and trailers to the public in the state under the  
7 franchise system includes more than the mere transfer of title,  
8 being a continuing obligation of the manufacturer, distributor, and  
9 dealer to the buying public affecting the public interest; that  
10 the termination or failure of the established relationship between  
11 the manufacturer, distributor, and dealer without cause or good  
12 faith denies to the general buying public its right to availability  
13 of continuing post-sale mechanical and operational services and  
14 precludes the relationship, expected and implied at the time of  
15 sale, between the buyer and the seller necessary to insure safe  
16 operating condition of the vehicle.

17           (3) The Legislature further finds and declares that the  
18 distribution and sale of motor vehicles in the state under the  
19 franchise system vitally affects commerce, the general economy of  
20 the state, and the welfare of the citizens of the state requiring  
21 the exercise of its police power to insure the public welfare,  
22 to regulate commerce, to establish guidelines for enforcement of a  
23 fair and equitable balance between parties to such franchises, and  
24 to provide judicial relief from unfair and inequitable practices  
25 affecting the public interest.

1           Sec. 14. Section 60-1401.02, Revised Statutes Supplement,  
2 2009, is amended to read:

3           60-1401.02 For purposes of the Motor Vehicle Industry  
4 Regulation Act, the definitions found in sections 15 to 52 of this  
5 act apply. sections 60-1401.01 to 60-1440 and 60-2601 to 60-2607,  
6 unless the context otherwise requires:

7           (1) Person means every natural person, firm, partnership,  
8 limited liability company, association, or corporation;

9           (2) Association means any two or more persons acting  
10 with a common purpose, regardless of the relative degrees of  
11 involvement, and includes, but is not limited to, the following  
12 persons so acting:

13           (a) A person and one or more of his or her family  
14 members. For purposes of this subdivision, family member means an  
15 individual related to the person by blood, marriage, adoption, or  
16 legal guardianship as the person's spouse, child, parent, brother,  
17 sister, grandchild, grandparent, ward, or legal guardian or any  
18 individual so related to the person's spouse; and

19           (b) Two or more persons living in the same dwelling unit,  
20 whether or not related to each other;

21           (3) Motor vehicle dealer means any person, other than a  
22 bona fide consumer, actively and regularly engaged in the act of  
23 selling, leasing for a period of thirty or more days, or exchanging  
24 new or used motor vehicles, trailers, and manufactured homes who  
25 buys, sells, exchanges, causes the sale of, or offers or attempts

1 to sell new or used motor vehicles. Such person is a motor vehicle  
2 dealer and subject to sections 60-1401.01 to 60-1440. Motor vehicle  
3 dealer does not include a lessor who was not involved in or  
4 associated with the selection, location, acquisition, or supply of  
5 a motor vehicle which is the subject of a lease agreement;

6 (4) Trailer dealer means any person, other than a bona  
7 fide consumer, actively and regularly engaged in the business of  
8 selling or exchanging new or used trailers and manufactured homes;

9 (5) Wrecker or salvage dealer means any person who  
10 acquires one or more motor vehicles or trailers for the purpose  
11 of dismantling them for the purpose of reselling the parts or  
12 reselling the vehicles as scrap;

13 (6) Motor vehicle means any vehicle for which evidence of  
14 title is required as a condition precedent to registration under  
15 the laws of this state but does not include trailers. Motor vehicle  
16 also means any engine, transmission, or rear axle, regardless of  
17 whether attached to a vehicle chassis, that is manufactured for  
18 installation in any motor-driven vehicle with a gross vehicle  
19 weight rating of more than sixteen thousand pounds for which  
20 motor-driven vehicle evidence of title is required as a condition  
21 precedent to registration under the laws of this state;

22 (7) Used motor vehicle means every motor vehicle which  
23 has been sold, bargained, exchanged, or given away or for which  
24 title has been transferred from the person who first acquired  
25 it from the manufacturer, importer, dealer, or agent of the

1 ~~manufacturer or importer. A new motor vehicle is not considered~~  
2 ~~a used motor vehicle until it has been placed in use by a bona~~  
3 ~~fide consumer, notwithstanding the number of transfers of the motor~~  
4 ~~vehicle;~~

5 ~~(8) New motor vehicle means all motor vehicles which are~~  
6 ~~not included within the definition of a used motor vehicle in this~~  
7 ~~section;~~

8 ~~(9) Trailer means semitrailers and trailers as defined~~  
9 ~~in sections 60-348 and 60-354, respectively, which are required to~~  
10 ~~be licensed as commercial trailers, other vehicles without motive~~  
11 ~~power constructed so as to permit their being used as conveyances~~  
12 ~~upon the public streets and highways and so constructed as not to~~  
13 ~~be attached to real estate and to permit the vehicle to be used~~  
14 ~~for human habitation by one or more persons, and camping trailers,~~  
15 ~~slide-in campers, fold-down campers, and fold-down tent trailers.~~  
16 ~~Machinery and equipment to which wheels are attached and designed~~  
17 ~~for being towed by a motor vehicle are excluded from the provisions~~  
18 ~~of sections 60-1401.01 to 60-1440;~~

19 ~~(10) Motorcycle dealer means any person, other than a~~  
20 ~~bona fide consumer, actively and regularly engaged in the business~~  
21 ~~of selling or exchanging new or used motorcycles;~~

22 ~~(11) Motorcycle means every motor vehicle, except a~~  
23 ~~tractor, having a seat or saddle for use of the rider and designed~~  
24 ~~to travel on not more than three wheels in contact with the~~  
25 ~~ground and for which evidence of title is required as a condition~~

1 ~~precedent to registration under the laws of this state,~~

2           ~~(12) Auction means a sale of motor vehicles and trailers~~  
3 ~~of types required to be registered in this state, except such~~  
4 ~~vehicles as are eligible for registration pursuant to section~~  
5 ~~60-3,198, sold or offered for sale at which the price offered is~~  
6 ~~increased by the prospective buyers who bid against one another,~~  
7 ~~the highest bidder becoming the purchaser. The holding of a farm~~  
8 ~~auction or an occasional motor vehicle or trailer auction of not~~  
9 ~~more than two auctions in a calendar year does not constitute an~~  
10 ~~auction subject to sections 60-1401.01 to 60-1440,~~

11           ~~(13) Auction dealer means any person engaged in the~~  
12 ~~business of conducting an auction for the sale of motor vehicles~~  
13 ~~and trailers,~~

14           ~~(14) Supplemental motor vehicle, trailer, motorcycle,~~  
15 ~~or motor vehicle auction dealer means any person holding either~~  
16 ~~a motor vehicle, trailer, motorcycle, or motor vehicle auction~~  
17 ~~dealer's license engaging in the business authorized by such~~  
18 ~~license at a place of business that is more than three hundred feet~~  
19 ~~from any part of the place of business designated in the dealer's~~  
20 ~~original license but which is located within the city or county~~  
21 ~~described in such original license,~~

22           ~~(15) Motor vehicle, motorcycle, or trailer salesperson~~  
23 ~~means any person who, for a salary, commission, or compensation of~~  
24 ~~any kind, is employed directly by only one specified licensed~~  
25 ~~Nebraska motor vehicle dealer, motorcycle dealer, or trailer~~

1 dealer, except when the salesperson is working for two or more  
2 dealerships with common ownership, to sell, purchase, or exchange  
3 or to negotiate for the sale, purchase, or exchange of motor  
4 vehicles, motorcycles, or trailers. A person owning any part  
5 of more than one dealership may be a salesperson for each of  
6 such dealerships. For purposes of this section, common ownership  
7 means that there is at least an eighty percent interest in  
8 each dealership by one or more persons having ownership in such  
9 dealership.

10           (16) Manufacturer means any person, resident or  
11 nonresident of this state, who is engaged in the business of  
12 distributing, manufacturing, or assembling new motor vehicles,  
13 trailers, or motorcycles and also has the same meaning as the term  
14 franchisor as used in sections 60-1401.01 to 60-1440.

15           (17) Factory representative means a representative  
16 employed by a person who manufactures or assembles motor vehicles,  
17 motorcycles, or trailers, or by a factory branch, for the purpose  
18 of promoting the sale of its motor vehicles, motorcycles, or  
19 trailers to, or for supervising or contacting, its dealers or  
20 prospective dealers in this state.

21           (18) Distributor means a person, resident or nonresident  
22 of this state, who in whole or in part sells or distributes  
23 new motor vehicles, trailers, or motorcycles to dealers or who  
24 maintains distributors or representatives who sell or distribute  
25 motor vehicles, trailers, or motorcycles to dealers and also has

1 the same meaning as the term franchisor as used in sections  
2 ~~60-1401.01 to 60-1440;~~

3 ~~(19) Finance company means any person engaged in the~~  
4 ~~business of financing sales of motor vehicles, motorcycles, or~~  
5 ~~trailers, or purchasing or acquiring promissory notes, secured~~  
6 ~~instruments, or other documents by which the motor vehicles,~~  
7 ~~motorcycles, or trailers are pledged as security for payment of~~  
8 ~~obligations arising from such sales and who may find it necessary~~  
9 ~~to engage in the activity of repossession and the sale of the motor~~  
10 ~~vehicles, motorcycles, or trailers so pledged;~~

11 ~~(20) Franchise means a contract between two or more~~  
12 ~~persons when all of the following conditions are included:~~

13 ~~(a) A commercial relationship of definite duration or~~  
14 ~~continuing indefinite duration is involved;~~

15 ~~(b) The franchisee is granted the right to offer and sell~~  
16 ~~motor vehicles manufactured or distributed by the franchisor;~~

17 ~~(c) The franchisee, as an independent business,~~  
18 ~~constitutes a component of the franchisor's distribution system;~~

19 ~~(d) The operation of the franchisee's business is~~  
20 ~~substantially associated with the franchisor's trademark, service~~  
21 ~~mark, trade name, advertising, or other commercial symbol~~  
22 ~~designating the franchisor; and~~

23 ~~(e) The operation of the franchisee's business is~~  
24 ~~substantially reliant on the franchisor for the continued supply of~~  
25 ~~motor vehicles, parts, and accessories;~~

1           ~~(21) Franchisee means a new motor vehicle dealer who~~  
2     ~~receives motor vehicles from the franchisor under a franchise and~~  
3     ~~who offers and sells such motor vehicles to the general public;~~

4           ~~(22) Franchisor means a person who manufactures or~~  
5     ~~distributes motor vehicles and who may enter into a franchise;~~

6           ~~(23) Community means a franchisee's area of~~  
7     ~~responsibility as stipulated in the franchise;~~

8           ~~(24) Line-make means the motor vehicles that are offered~~  
9     ~~for sale, lease, or distribution under a common name, trademark,~~  
10    ~~service mark, or brand name of the franchisor or manufacturer of~~  
11    ~~the motor vehicle;~~

12          ~~(25) Consumer care means the performance, for the public,~~  
13    ~~of necessary maintenance and repairs to motor vehicles;~~

14          ~~(26) Sale, selling, and equivalent expressions mean the~~  
15    ~~attempted act or acts either as principal, agent, or salesperson~~  
16    ~~or in any capacity whatsoever of selling, bartering, exchanging,~~  
17    ~~or otherwise disposing of or negotiating or offering or attempting~~  
18    ~~to negotiate the sale, purchase, or exchange of or interest in any~~  
19    ~~motor vehicle, trailer, or motorcycle, including the leasing of any~~  
20    ~~motor vehicle, trailer, or motorcycle for a period of thirty or~~  
21    ~~more days with a right or option to purchase under the terms of the~~  
22    ~~lease;~~

23          ~~(27) Established place of business means a permanent~~  
24    ~~location within this state, easily accessible to the public, owned~~  
25    ~~or leased by the applicant or a licensee for at least the term~~

1 of the license year, and conforming with applicable zoning laws,  
2 at which the licensee conducts the business for which he or she  
3 is licensed and may be contacted by the public during posted  
4 reasonable business hours which shall be not less than forty  
5 hours per week. The established place of business shall have the  
6 following facilities: (a) Office space in a building or mobile  
7 home, which space shall be clean, dry, safe, and well lighted  
8 and in which shall be kept and maintained all books, records,  
9 and files necessary for the conduct of the licensed business,  
10 which premises, books, records, and files shall be available for  
11 inspection during regular business hours by any peace officer or  
12 investigator employed or designated by the board. Dealers shall,  
13 upon demand of the board's investigator, furnish copies of records  
14 so required when conducting any investigation of a complaint; (b)  
15 a sound and well-maintained sign which is legible from a public  
16 road and displayed with letters not less than eight inches in  
17 height and one contiguous area to display ten or more motor  
18 vehicles, motorcycles, or trailers in a presentable manner; (c)  
19 adequate repair facilities and tools to properly and actually  
20 service warranties on motor vehicles, motorcycles, or trailers sold  
21 at such place of business and to make other repairs arising out  
22 of the conduct of the licensee's business or, in lieu of such  
23 repair facilities, the licensee may enter into a contract for the  
24 provision of such service and file a copy thereof annually with the  
25 board and shall furnish to each buyer a written statement as to

1 where such service will be provided as required by section 60-1417.  
2 The service facility shall be located in the same county as the  
3 licensee unless the board specifically authorizes the facility to  
4 be located elsewhere. Such facility shall maintain regular business  
5 hours and shall have suitable repair equipment and facilities to  
6 service and inspect the type of vehicles sold by the licensee.  
7 Investigators of the board may certify ongoing compliance with  
8 the service and inspection facilities or repair facilities; and  
9 ~~(d)~~ an operating telephone connected with a public telephone  
10 exchange and located on the premises of the established place of  
11 business with a telephone number listed by the public telephone  
12 exchange and available to the public during the required posted  
13 business hours. A mobile truck equipped with repair facilities  
14 to properly perform warranty functions and other repairs shall be  
15 deemed adequate repair facilities for trailers. The requirements of  
16 this subdivision shall apply to the place of business authorized  
17 under a supplemental motor vehicle, motorcycle, or trailer dealer's  
18 license;

19 ~~(28)~~ Retail, when used to describe a sale, means a sale  
20 to any person other than a licensed dealer of any kind within the  
21 definitions of this section;

22 ~~(29)~~ Factory branch means a branch office maintained in  
23 this state by a person who manufactures, assembles, or distributes  
24 motor vehicles, motorcycles, or trailers for the sale of such motor  
25 vehicles, motorcycles, or trailers to distributors or dealers

1 or for directing or supervising, in whole or in part, its  
2 representatives in this state;

3 ~~(30) Distributor representative means a representative~~  
4 ~~employed by a distributor or distributor branch for the same~~  
5 ~~purpose as set forth in the definition of factory representative in~~  
6 ~~this section;~~

7 ~~(31) Board means the Nebraska Motor Vehicle Industry~~  
8 ~~Licensing Board;~~

9 ~~(32) Scrap metal processor means any person engaged in~~  
10 ~~the business of buying vehicles, motorcycles, or parts thereof~~  
11 ~~for the purpose of remelting or processing into scrap metal or~~  
12 ~~who otherwise processes ferrous or nonferrous metallic scrap for~~  
13 ~~resale. No scrap metal processor shall sell vehicles or motorcycles~~  
14 ~~without obtaining a wrecker or salvage dealer license;~~

15 ~~(33) Designated family member means the spouse, child,~~  
16 ~~grandchild, parent, brother, or sister of the owner of a new~~  
17 ~~motor vehicle dealership who, in the case of the owner's death,~~  
18 ~~is entitled to inherit the ownership interest in the new motor~~  
19 ~~vehicle dealership under the terms of the owner's will, who has~~  
20 ~~been nominated in any other written instrument, or who, in the case~~  
21 ~~of an incapacitated owner of such dealership, has been appointed~~  
22 ~~by a court as the legal representative of the new motor vehicle~~  
23 ~~dealer's property;~~

24 ~~(34) Bona fide consumer means an owner of a motor~~  
25 ~~vehicle, motorcycle, or trailer who has acquired such vehicle for~~

1 use in business or for pleasure purposes, who has been granted a  
2 certificate of title on such motor vehicle, motorcycle, or trailer,  
3 and who has registered such motor vehicle, motorcycle, or trailer,  
4 all in accordance with the laws of the residence of the owner,  
5 except that no owner who sells more than eight registered motor  
6 vehicles, motorcycles, or trailers within a twelve-month period  
7 shall qualify as a bona fide consumer;

8 ~~(35) Violator means a person acting without a license or~~  
9 ~~registration as required by sections 60-1401.01 to 60-1440;~~

10 ~~(36) Manufactured home means a structure, transportable~~  
11 ~~in one or more sections, which in the traveling mode is eight body~~  
12 ~~feet or more in width or forty body feet or more in length or when~~  
13 ~~erected on site is three hundred twenty or more square feet and~~  
14 ~~which is built on a permanent chassis and designed to be used as~~  
15 ~~a dwelling with or without a permanent foundation when connected~~  
16 ~~to the required utilities and includes the plumbing, heating, air~~  
17 ~~conditioning, and electrical systems contained in the structure,~~  
18 ~~except that manufactured home includes any structure that meets~~  
19 ~~all of the requirements of this subdivision other than the size~~  
20 ~~requirements and with respect to which the manufacturer voluntarily~~  
21 ~~files a certification required by the United States Secretary~~  
22 ~~of Housing and Urban Development and complies with the standards~~  
23 ~~established under the National Manufactured Housing Construction~~  
24 ~~and Safety Standards Act of 1974, as such act existed on September~~  
25 ~~1, 2001, 42 U.S.C. 5401 et seq.; and~~

1           ~~(37) Dealer's agent means a person who acts as a buying~~  
 2           ~~agent for one or more motor vehicle dealers, motorcycle dealers, or~~  
 3           ~~trailer dealers.~~

4           ~~Nothing in sections 60-1401.01 to 60-1440 shall apply to~~  
 5           ~~the State of Nebraska or any of its agencies or subdivisions. No~~  
 6           ~~insurance company, finance company, public utility company, fleet~~  
 7           ~~owner, or other person coming into possession of any motor vehicle,~~  
 8           ~~motorcycle, or trailer, as an incident to its regular business, who~~  
 9           ~~sells or exchanges the motor vehicle, motorcycle, or trailer shall~~  
 10           ~~be considered a dealer except persons whose regular business is~~  
 11           ~~leasing or renting motor vehicles, motorcycles, or trailers.~~

12           Sec. 15. Association means any two or more persons acting  
 13           with a common purpose, regardless of the relative degrees of  
 14           involvement, and includes, but is not limited to, the following  
 15           persons so acting:

16           (1) A person and one or more of his or her family  
 17           members. For purposes of this subdivision, family member means an  
 18           individual related to the person by blood, marriage, adoption, or  
 19           legal guardianship as the person's spouse, child, parent, brother,  
 20           sister, grandchild, grandparent, ward, or legal guardian or any  
 21           individual so related to the person's spouse; and

22           (2) Two or more persons living in the same dwelling unit,  
 23           whether or not related to each other.

24           Sec. 16. Auction means a sale of motor vehicles and  
 25           trailers of types required to be registered in this state, except

1 such vehicles as are eligible for registration pursuant to section  
2 60-3,198, sold or offered for sale at which the price offered is  
3 increased by the prospective buyers who bid against one another,  
4 the highest bidder becoming the purchaser. The holding of a farm  
5 auction or an occasional motor vehicle or trailer auction of not  
6 more than two auctions in a calendar year does not constitute an  
7 auction subject to the Motor Vehicle Industry Regulation Act.

8           Sec. 17. Auction dealer means any person engaged in the  
9 business of conducting an auction for the sale of motor vehicles  
10 and trailers.

11           Sec. 18. Board means the Nebraska Motor Vehicle Industry  
12 Licensing Board.

13           Sec. 19. Bona fide consumer means an owner of a motor  
14 vehicle, motorcycle, or trailer who has acquired such vehicle for  
15 use in business or for pleasure purposes, who has been granted a  
16 certificate of title on such motor vehicle, motorcycle, or trailer,  
17 and who has registered such motor vehicle, motorcycle, or trailer,  
18 all in accordance with the laws of the residence of the owner,  
19 except that no owner who sells more than eight registered motor  
20 vehicles, motorcycles, or trailers within a twelve-month period  
21 shall qualify as a bona fide consumer.

22           Sec. 20. Coerce means to compel a dealer or manipulate a  
23 dealer to behave in an involuntary way, whether through action or  
24 inaction, by use of threats, intimidation, trickery, or some other  
25 form of pressure or force.

1           Sec. 21. Community means a franchisee's area of  
2 responsibility as stipulated in the franchise or, if the franchise  
3 fails to designate a community, (1) the community of the franchisee  
4 is the area surrounding the location of the franchisee in a  
5 five-mile radius from the dealership if the location is within  
6 a city of the metropolitan class and (2) the community of the  
7 franchisee is the county in which the franchisee is located if the  
8 location is not within a city of the metropolitan class.

9           Sec. 22. Consumer care means the performance, for the  
10 public, of necessary maintenance and repairs to motor vehicles.

11           Sec. 23. Dealer's agent means a person who acts as a  
12 buying agent for one or more motor vehicle dealers, motorcycle  
13 dealers, or trailer dealers.

14           Sec. 24. Designated family member means the spouse,  
15 child, grandchild, parent, brother, or sister of the owner of a new  
16 motor vehicle dealership who, in the case of the owner's death,  
17 is entitled to inherit the ownership interest in the new motor  
18 vehicle dealership under the terms of the owner's will, who has  
19 been nominated in any other written instrument, or who, in the case  
20 of an incapacitated owner of such dealership, has been appointed  
21 by a court as the legal representative of the new motor vehicle  
22 dealer's property.

23           Sec. 25. Distributor means a person, resident or  
24 nonresident of this state, who, in whole or in part, sells or  
25 distributes new motor vehicles, trailers, or motorcycles to dealers

1 or who maintains distributors or representatives who sell or  
2 distribute motor vehicles, trailers, or motorcycles to dealers and  
3 also has the same meaning as the term franchisor.

4           Sec. 26. Distributor representative means a  
5 representative employed by a distributor or distributor branch  
6 for the same purpose as set forth in the definition of factory  
7 representative.

8           Sec. 27. (1) Established place of business means a  
9 permanent location within this state, easily accessible to the  
10 public, owned or leased by the applicant or a licensee for at least  
11 the term of the license year, and conforming with applicable zoning  
12 laws, at which the licensee conducts the business for which he or  
13 she is licensed and may be contacted by the public during posted  
14 reasonable business hours which shall be not less than forty hours  
15 per week.

16           (2) The established place of business shall have the  
17 following facilities:

18           (a) Office space in a building or mobile home, which  
19 space shall be clean, dry, safe, and well lighted and in  
20 which shall be kept and maintained all books, records, and files  
21 necessary for the conduct of the licensed business, which premises,  
22 books, records, and files shall be available for inspection  
23 during regular business hours by any peace officer or investigator  
24 employed or designated by the board. Dealers shall, upon demand  
25 of the board's investigator, furnish copies of records so required

1 when conducting any investigation of a complaint;

2 (b) A sound and well-maintained sign which is legible  
3 from a public road and displayed with letters not less than eight  
4 inches in height and one contiguous area to display ten or more  
5 motor vehicles, motorcycles, or trailers in a presentable manner;

6 (c) Adequate repair facilities and tools to properly  
7 and actually service warranties on motor vehicles, motorcycles,  
8 or trailers sold at such place of business and to make other  
9 repairs arising out of the conduct of the licensee's business or,  
10 in lieu of such repair facilities, the licensee may enter into a  
11 contract for the provision of such service and file a copy thereof  
12 annually with the board and shall furnish to each buyer a written  
13 statement as to where such service will be provided as required by  
14 section 60-1417. The service facility shall be located in the same  
15 county as the licensee unless the board specifically authorizes  
16 the facility to be located elsewhere. Such facility shall maintain  
17 regular business hours and shall have suitable repair equipment and  
18 facilities to service and inspect the type of vehicles sold by the  
19 licensee. Investigators of the board may certify ongoing compliance  
20 with the service and inspection facilities or repair facilities;  
21 and

22 (d) An operating telephone connected with a public  
23 telephone exchange and located on the premises of the established  
24 place of business with a telephone number listed by the public  
25 telephone exchange and available to the public during the required

1 posted business hours.

2 (3) A mobile truck equipped with repair facilities to  
3 properly perform warranty functions and other repairs shall be  
4 deemed adequate repair facilities for trailers.

5 (4) The requirements of this section shall apply to the  
6 place of business authorized under a supplemental motor vehicle,  
7 motorcycle, or trailer dealer's license.

8 Sec. 28. Factory branch means a branch office maintained  
9 in this state by a person who manufactures, assembles, or  
10 distributes motor vehicles, motorcycles, or trailers for the sale  
11 of such motor vehicles, motorcycles, or trailers to distributors or  
12 dealers or for directing or supervising, in whole or in part, its  
13 representatives in this state.

14 Sec. 29. Factory representative means a representative  
15 employed by a person who manufactures or assembles motor vehicles,  
16 motorcycles, or trailers, or by a factory branch, for the purpose  
17 of promoting the sale of its motor vehicles, motorcycles, or  
18 trailers to, or for supervising or contacting, its dealers or  
19 prospective dealers in this state.

20 Sec. 30. Finance company means any person engaged in  
21 the business of financing sales of motor vehicles, motorcycles,  
22 or trailers, or purchasing or acquiring promissory notes, secured  
23 instruments, or other documents by which the motor vehicles,  
24 motorcycles, or trailers are pledged as security for payment of  
25 obligations arising from such sales and who may find it necessary

1 to engage in the activity of repossession and the sale of the motor  
2 vehicles, motorcycles, or trailers so pledged.

3           Sec. 31. Franchise means a contract between two or more  
4 persons when all of the following conditions are included:

5           (1) A commercial relationship of definite duration or  
6 continuing indefinite duration is involved;

7           (2) The franchisee is granted the right to offer and sell  
8 motor vehicles manufactured or distributed by the franchisor;

9           (3) The franchisee, as an independent business,  
10 constitutes a component of the franchisor's distribution system;

11           (4) The operation of the franchisee's business is  
12 substantially associated with the franchisor's trademark, service  
13 mark, trade name, advertising, or other commercial symbol  
14 designating the franchisor; and

15           (5) The operation of the franchisee's business is  
16 substantially reliant on the franchisor for the continued supply of  
17 motor vehicles, parts, and accessories.

18           Sec. 32. Franchisee means a new motor vehicle dealer who  
19 receives motor vehicles from the franchisor under a franchise and  
20 who offers and sells such motor vehicles to the general public.

21           Sec. 33. Franchisor means a person who manufactures or  
22 distributes motor vehicles and who may enter into a franchise.

23           Sec. 34. Line-make means a collection of models, series,  
24 or groups of motor vehicles manufactured by or for a particular  
25 manufacturer, distributor, or importer that are offered for sale,

1 lease, or distribution pursuant to a common brand name or mark,  
2 except that:

3 (1) Multiple brand names or marks may constitute a  
4 single line-make, but only when included in a common dealer  
5 agreement and the manufacturer, distributor, or importer offers  
6 such vehicles bearing the multiple names or marks together only,  
7 and not separately, to its authorized dealers; and

8 (2) Motor vehicles bearing a common brand name or  
9 mark may constitute separate line-makes when pertaining to motor  
10 vehicles subject to separate dealer agreements or when such  
11 vehicles are intended for different types of use.

12 Sec. 35. Manufactured home means a structure,  
13 transportable in one or more sections, which in the traveling mode  
14 is eight body feet or more in width or forty body feet or more in  
15 length or when erected on site is three hundred twenty or more  
16 square feet and which is built on a permanent chassis and designed  
17 to be used as a dwelling with or without a permanent foundation  
18 when connected to the required utilities and includes the plumbing,  
19 heating, air conditioning, and electrical systems contained in the  
20 structure, except that manufactured home includes any structure  
21 that meets all of the requirements of this section other than  
22 the size requirements and with respect to which the manufacturer  
23 voluntarily files a certification required by the United States  
24 Secretary of Housing and Urban Development and complies with  
25 the standards established under the National Manufactured Housing

1 Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et  
2 seq., as such act existed on January 1, 2010.

3           Sec. 36. Manufacturer means any person, resident or  
4 nonresident of this state, who is engaged in the business of  
5 distributing, manufacturing, or assembling a line-make of new motor  
6 vehicles, trailers, or motorcycles and distributes them directly  
7 or indirectly through one or more distributors to one or more new  
8 motor vehicle, trailer, or motorcycle dealers in this state and  
9 also has the same meaning as the term franchisor.

10           Manufacturer also includes a central or principal sales  
11 corporation or other entity through which, by contractual agreement  
12 or otherwise, a manufacturer distributes its products.

13           Sec. 37. Motor vehicle means any vehicle for which  
14 evidence of title is required as a condition precedent to  
15 registration under the laws of this state but does not include  
16 trailers.

17           Motor vehicle also means any engine, transmission, or  
18 rear axle, regardless of whether attached to a vehicle chassis,  
19 that is manufactured for installation in any motor-driven vehicle  
20 with a gross vehicle weight rating of more than sixteen thousand  
21 pounds for which motor-driven vehicle evidence of title is required  
22 as a condition precedent to registration under the laws of this  
23 state.

24           Sec. 38. Motor vehicle dealer means any person, other  
25 than a bona fide consumer, actively and regularly engaged in the

1 act of selling, leasing for a period of thirty or more days, or  
2 exchanging new or used motor vehicles, trailers, and manufactured  
3 homes who buys, sells, exchanges, causes the sale of, or offers or  
4 attempts to sell new or used motor vehicles. Such person is a motor  
5 vehicle dealer and subject to the Motor Vehicle Industry Regulation  
6 Act.

7 Motor vehicle dealer does not include a lessor who  
8 was not involved in or associated with the selection, location,  
9 acquisition, or supply of a motor vehicle which is the subject of a  
10 lease agreement.

11 Sec. 39. Motor vehicle, motorcycle, or trailer  
12 salesperson means any person who, for a salary, commission,  
13 or compensation of any kind, is employed directly by only one  
14 specified licensed Nebraska motor vehicle dealer, motorcycle  
15 dealer, or trailer dealer, except when the salesperson is working  
16 for two or more dealerships with common ownership, to sell,  
17 purchase, or exchange or to negotiate for the sale, purchase, or  
18 exchange of motor vehicles, motorcycles, or trailers. A person  
19 owning any part of more than one dealership may be a salesperson  
20 for each of such dealerships. For purposes of this section, common  
21 ownership means that there is at least an eighty percent interest  
22 in each dealership by one or more persons having ownership in such  
23 dealership.

24 Sec. 40. Motorcycle means every motor vehicle, except a  
25 tractor, having a seat or saddle for use of the rider and designed

1 to travel on not more than three wheels in contact with the  
2 ground and for which evidence of title is required as a condition  
3 precedent to registration under the laws of this state.

4       Sec. 41. Motorcycle dealer means any person, other than a  
5 bona fide consumer, actively and regularly engaged in the business  
6 of selling or exchanging new or used motorcycles.

7       Sec. 42. New motor vehicle means all motor vehicles which  
8 are not included within the definition of a used motor vehicle.

9       Sec. 43. Person means every natural person, firm,  
10 partnership, limited liability company, association, or  
11 corporation.

12       Sec. 44. Retail, when used to describe a sale, means  
13 a sale to any person other than a licensed dealer of any kind  
14 licensed under the Motor Vehicle Industry Regulation Act.

15       Sec. 45. Sale, selling, and equivalent expressions  
16 mean the attempted act or acts either as principal, agent, or  
17 salesperson or in any capacity whatsoever of selling, bartering,  
18 exchanging, or otherwise disposing of or negotiating or offering  
19 or attempting to negotiate the sale, purchase, or exchange of or  
20 interest in any motor vehicle, trailer, or motorcycle, including  
21 the leasing of any motor vehicle, trailer, or motorcycle for a  
22 period of thirty or more days with a right or option to purchase  
23 under the terms of the lease.

24       Sec. 46. Scrap metal processor means any person engaged  
25 in the business of buying vehicles, motorcycles, or parts thereof

1 for the purpose of remelting or processing into scrap metal or  
2 who otherwise processes ferrous or nonferrous metallic scrap for  
3 resale.

4 No scrap metal processor shall sell vehicles or  
5 motorcycles without obtaining a wrecker or salvage dealer license.

6 Sec. 47. Supplemental motor vehicle, trailer, motorcycle,  
7 or motor vehicle auction dealer means any person holding either  
8 a motor vehicle, trailer, motorcycle, or motor vehicle auction  
9 dealer's license engaging in the business authorized by such  
10 license at a place of business that is more than three hundred feet  
11 from any part of the place of business designated in the dealer's  
12 original license but which is located within the city or county  
13 described in such original license.

14 Sec. 48. Trailer means semitrailers and trailers as  
15 defined in sections 60-348 and 60-354, respectively, which are  
16 required to be licensed as commercial trailers, other vehicles  
17 without motive power constructed so as to permit their being  
18 used as conveyances upon the public streets and highways and so  
19 constructed as not to be attached to real estate and to permit the  
20 vehicle to be used for human habitation by one or more persons,  
21 and camping trailers, slide-in campers, fold-down campers, and  
22 fold-down tent trailers.

23 Machinery and equipment to which wheels are attached and  
24 designed for being towed by a motor vehicle are excluded from the  
25 Motor Vehicle Industry Regulation Act.

1           Sec. 49. Trailer dealer means any person, other than a  
2 bona fide consumer, actively and regularly engaged in the business  
3 of selling or exchanging new or used trailers and manufactured  
4 homes.

5           Sec. 50. Used motor vehicle means every motor vehicle  
6 which has been sold, bargained, exchanged, or given away or for  
7 which title has been transferred from the person who first acquired  
8 it from the manufacturer, importer, dealer, or agent of the  
9 manufacturer or importer.

10           A new motor vehicle is not considered a used motor  
11 vehicle until it has been placed in use by a bona fide consumer,  
12 notwithstanding the number of transfers of the motor vehicle.

13           Sec. 51. Violator means a person acting without a  
14 license or registration as required by the Motor Vehicle Industry  
15 Regulation Act.

16           Sec. 52. Wrecker or salvage dealer means any person who  
17 acquires one or more motor vehicles or trailers for the purpose  
18 of dismantling them for the purpose of reselling the parts or  
19 reselling the vehicles as scrap.

20           Sec. 53. (1) Nothing in the Motor Vehicle Industry  
21 Regulation Act shall apply to the State of Nebraska or any of its  
22 agencies or subdivisions.

23           (2) No insurance company, finance company, public utility  
24 company, fleet owner, or other person coming into possession of  
25 any motor vehicle, motorcycle, or trailer, as an incident to

1 its regular business, who sells or exchanges the motor vehicle,  
2 motorcycle, or trailer shall be considered a dealer except persons  
3 whose regular business is leasing or renting motor vehicles,  
4 motorcycles, or trailers.

5           Sec. 54. Section 60-1402, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           60-1402 (1) There is hereby established the Nebraska  
8 Motor Vehicle Industry Licensing Board which shall consist of the  
9 Director of Motor Vehicles, who shall be ~~chairman~~ the chairperson  
10 of the board, and nine members appointed by the Governor as  
11 follows: One factory representative, one member of the general  
12 public, and one motorcycle dealer, all of whom shall be appointed  
13 from the state at large, one new motor vehicle dealer from each of  
14 the three congressional districts of the state as the districts are  
15 constituted on October 19, 1963, and two used motor vehicle dealers  
16 and one trailer dealer or combination motor vehicle or trailer  
17 dealer, not more than one used motor vehicle dealer being appointed  
18 from the same congressional district as they are constituted on  
19 October 19, 1963, and the trailer dealer or combination motor  
20 vehicle or trailer dealer being appointed from the state at large.  
21 No + ~~PROVIDED, that no~~ member of the board shall participate in  
22 any manner in a proceeding before the board involving his or her  
23 licensed business.

24           (2) On October 19, 1963, the Governor shall appoint a  
25 new motor vehicle dealer and a trailer dealer or combination motor

1 vehicle or trailer dealer to the board. In making the appointments,  
2 the Governor shall appoint one of the new members for one year and  
3 one for two years as designated by ~~him~~ the Governor in making the  
4 appointments. On January 1, 1972, the Governor shall appoint one  
5 factory representative and one member of the general public to the  
6 board, designating one to serve for a term of one year and one  
7 for a term of two years. On January 1, 1974, the Governor shall  
8 appoint one motorcycle dealer to serve for a term of three years.  
9 At the expiration of the term of any appointed member of the board,  
10 the Governor shall appoint a successor for a term of three years.  
11 In the event of a vacancy on the board, the Governor shall fill  
12 such vacancy by appointing a member to serve during the unexpired  
13 term of the member whose office has become vacant. No member  
14 appointed shall serve more than two consecutive terms. The action  
15 of the majority of the members of the board shall be deemed the  
16 action of the board. All appointments made to the board, except the  
17 Director of Motor Vehicles, shall be confirmed by the Legislature  
18 if in session. In the event the Legislature is not in session  
19 all appointments including appointments to fill a vacancy shall be  
20 temporary appointments until the next meeting of the Legislature  
21 when the Governor shall nominate some person to fill the office.  
22 Any person so nominated who is confirmed by the Legislature shall  
23 hold ~~his~~ office during the remainder of the term. No appointed  
24 person may act as a member of the board while holding any other  
25 elective or appointive state or federal office except the Director

1 of Motor Vehicles. All appointed members of the board shall be paid  
2 fifty dollars for each day actually engaged in the performance of  
3 their duties and be entitled to their reasonable traveling expenses  
4 in the performance of their duties.

5 Sec. 55. Section 60-1403, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 60-1403 (1) The board may:

8 (a) Regulate the issuance and revocation of licenses in  
9 accordance with and subject to ~~sections 60-1401.01 to 60-1440;~~ the  
10 Motor Vehicle Industry Regulation Act;

11 (b) Perform all acts and duties provided for in ~~such~~  
12 ~~sections~~ the act necessary to the administration and enforcement of  
13 ~~such sections;~~ the act; and

14 (c) Make and enforce rules and regulations relating to  
15 the administration of but not inconsistent with ~~such sections.~~ the  
16 act.

17 (2) The board shall adopt a seal, which may be either an  
18 engraved or ink stamp seal, with the words Nebraska Motor Vehicle  
19 Industry Licensing Board and such other devices as the board may  
20 desire included on the seal by which it shall authenticate the acts  
21 of its office. Copies of all records and papers in the office of  
22 the board under the hand and seal of its office shall be received  
23 in evidence in all cases equally and with like effect as the  
24 original.

25 (3) Investigators employed by the board may enter upon

1 and inspect the facilities, the required records, and any vehicles,  
2 trailers, or motorcycles found in any licensed motor vehicle,  
3 motorcycle, or trailer dealer's established place or places of  
4 business.

5           Sec. 56. Section 60-1403.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           60-1403.01 (1) No person shall engage in the business as,  
8 serve in the capacity of, or act as a motor vehicle, trailer, or  
9 motorcycle dealer, wrecker or salvage dealer, salesperson, auction  
10 dealer, dealer's agent, manufacturer, factory branch, factory  
11 representative, distributor, distributor branch, or distributor  
12 representative in this state without being licensed by the board  
13 under the ~~provisions of sections 60-1401.01 to 60-1440.~~ Motor  
14 Vehicle Industry Regulation Act. No salesperson's license shall be  
15 issued to any person under the age of sixteen, and no dealer's  
16 license shall be issued to any minor. No wrecker or salvage  
17 dealer's license shall be issued or renewed unless the applicant  
18 has a permanent place of business at which the activity requiring  
19 licensing is performed and which conforms to all local laws.

20           (2) A license issued under ~~sections 60-1401.01 to 60-1440~~  
21 the act shall authorize the holder thereof to engage in the  
22 business or activities permitted by the license subject to ~~sections~~  
23 ~~60-1401.01 to 60-1440~~ the act and the rules and regulations adopted  
24 and promulgated by the board under ~~such sections.~~ the act.

25           (3) This section shall not apply to a licensed real

1 estate salesperson or broker who negotiates for sale or sells a  
2 trailer for any individual who is the owner of not more than two  
3 trailers.

4 Sec. 57. Section 60-1404, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 60-1404 The board shall have the authority to employ  
7 an executive director who shall direct and administer the affairs  
8 of the board and who shall keep a record of all proceedings,  
9 transactions, communications, and official acts of the board.  
10 He or she shall be custodian of all records of the board and  
11 perform such other duties as the board may require. The executive  
12 director shall call a meeting of the board at the direction of  
13 the chairperson thereof or upon a written request of two or more  
14 members thereof. The executive director, with the approval of the  
15 board, is authorized to employ an attorney at a minimum salary of  
16 six hundred dollars per month together with such other employees,  
17 including staff for its attorney, as may be necessary to properly  
18 carry out ~~Chapter 60, article 14,~~ the Motor Vehicle Industry  
19 Regulation Act, to fix the salaries of such employees, and to make  
20 such other expenditures as are necessary to properly carry out  
21 ~~Chapter 60, article 14.~~ the act. The office of the board shall be  
22 maintained in the State Capitol at Lincoln and all files, records,  
23 and property of the board shall at all times be and remain therein.  
24 The executive director shall be the board's representative in the  
25 administration of ~~Chapter 60, article 14,~~ the act, and he or she

1 shall insure that the policies and directives of the board are  
2 carried out.

3 Sec. 58. Section 60-1405, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-1405 The Attorney General shall render to the Nebraska  
6 Motor Vehicle Industry Licensing Board opinions on all questions of  
7 law, relating to the interpretation of the ~~provisions of Chapter~~  
8 ~~60, article 14,~~ Motor Vehicle Industry Regulation Act or arising in  
9 the administration thereof. ~~He~~ The Attorney General shall act as  
10 attorney for the board in all actions and proceedings brought by or  
11 against it under or pursuant to any of the provisions of ~~Chapter~~  
12 ~~60, article 14,~~ PROVIDED, all the act. All fees and expenses of the  
13 Attorney General for such duties shall be paid out of the Nebraska  
14 Motor Vehicle Industry Licensing Fund.

15 Sec. 59. Section 60-1406, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-1406 Licenses issued by the board under ~~Chapter 60,~~  
18 ~~article 14,~~ the Motor Vehicle Industry Regulation Act shall be of  
19 the classes set out in this section and shall permit the business  
20 activities described in this section:

21 (1) Motor vehicle dealer's license. This license permits  
22 the licensee to engage in the business of selling or exchanging  
23 new, used, or new and used motor vehicles, trailers, and  
24 manufactured homes at the established place of business designated  
25 in the license and another place or places of business located

1 within three hundred feet of the designated place of business and  
2 within the city or county described in the original license. This  
3 license permits the sale of a trade-in or consignment mobile home  
4 greater than forty feet in length and eight feet in width and  
5 located at a place other than the dealer's established place of  
6 business. This license permits one person, either the licensee, if  
7 he or she is the individual owner of the licensed business, or a  
8 stockholder, officer, partner, or member of the licensee, to act as  
9 a motor vehicle, trailer, and manufactured home salesperson and the  
10 name of the authorized person shall appear on the license;

11 (2) Motor vehicle, motorcycle, or trailer salesperson  
12 license. This license permits the licensee to engage in the  
13 activities of a motor vehicle, motorcycle, or trailer salesperson.  
14 This license permits the one person named on the license to act as  
15 a salesperson;

16 (3) Manufacturer license. This license permits the  
17 licensee to engage in the activities of a motor vehicle,  
18 motorcycle, or trailer manufacturer or manufacturer's factory  
19 branch;

20 (4) Distributor license. This license permits the  
21 licensee to engage in the activities of a motor vehicle,  
22 motorcycle, or trailer distributor;

23 (5) Factory representative license. This license permits  
24 the licensee to engage in the activities of a factory branch  
25 representative;

1           (6) Factory branch license. This license permits the  
2 licensee to maintain a branch office in this state;

3           (7) Distributor representative license. This license  
4 permits the licensee to engage in the activities of a distributor  
5 representative;

6           (8) Finance company license. This license permits the  
7 licensee to engage in the activities of repossession of motor  
8 vehicles or trailers and the sale of such motor vehicles or  
9 trailers so repossessed;

10          (9) Wrecker or salvage dealer license. This license  
11 permits the licensee to engage in the business of acquiring motor  
12 vehicles or trailers for the purpose of dismantling the motor  
13 vehicles or trailers and selling or otherwise disposing of the  
14 parts and accessories of motor vehicles or trailers;

15          (10) Supplemental motor vehicle, motorcycle, or trailer  
16 dealer's license. This license permits the licensee to engage in  
17 the business of selling or exchanging motor vehicles, motorcycles,  
18 or trailers of the type designated in his or her dealer's license  
19 at a specified place of business which is located more than three  
20 hundred feet from any part of the place of business designated in  
21 the original motor vehicle, motorcycle, or trailer dealer's license  
22 but which is located within the city or county described in such  
23 original license;

24          (11) Motorcycle dealer's license. This license permits  
25 the licensee to engage in the business of selling or exchanging

1 new, used, or new and used motorcycles at the established place  
2 of business designated in the license and another place or places  
3 of business located within three hundred feet of the designated  
4 place of business and within the city or county described in the  
5 original license. This form of license permits one person named on  
6 the license, either the licensee, if he or she is the individual  
7 owner of the licensed business, or a stockholder, officer, partner,  
8 or member of the licensee, to act as a motorcycle salesperson and  
9 the name of the authorized person shall appear on the license;

10 (12) Motor vehicle auction dealer's license. This license  
11 permits the licensee to engage in the business of selling motor  
12 vehicles and trailers. This form of license permits one person  
13 named on the license, either the licensee, if he or she is  
14 the individual owner of the licensed business, or a stockholder,  
15 officer, partner, or member of the licensee, to act as a motor  
16 vehicle auction dealer's salesperson and the name of the authorized  
17 person shall appear on the license;

18 (13) Trailer dealer's license. This license permits the  
19 licensee to engage in the business of selling or exchanging new,  
20 used, or new and used trailers and manufactured homes at the  
21 established place of business designated in the license and another  
22 place or places of business located within three hundred feet of  
23 the designated place of business and within the city or county  
24 described in the original license. This form of license permits one  
25 person named on the license, either the licensee, if he or she is

1 the individual owner of the licensed business, or a stockholder,  
2 officer, partner, or member of the licensee, to act as a trailer  
3 and manufactured home salesperson and the name of the authorized  
4 person shall appear on the license; and

5 (14) Dealer's agent license. This license permits the  
6 licensee to act as the buying agent for one or more licensed motor  
7 vehicle dealers, motorcycle dealers, or trailer dealers. The agent  
8 shall act in accordance with a written contract and file a copy  
9 of the contract with the board. The dealer shall be bound by and  
10 liable for the actions of the agent. The dealer's agent shall  
11 disclose in writing to each dealer with which the agent contracts  
12 as an agent the names of all other dealers contracting with the  
13 agent. The agent shall make each purchase on behalf of and in  
14 the name of only one dealer and may purchase for dealers only at  
15 auctions and only from licensed dealers. The agent shall not act  
16 as a licensed dealer and is not authorized to sell any vehicle  
17 pursuant to this license.

18 Sec. 60. Section 60-1407, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 60-1407 Any person desiring to apply for one or more of  
21 the types of licenses described in ~~Chapter 60, article 14,~~ the  
22 Motor Vehicle Industry Regulation Act shall submit to the board, in  
23 writing, the following required information:

24 (1) The name and address of the applicant, if the  
25 applicant is an individual, his or her social security number, and

1 the name under which he or she intends to conduct business. If  
2 the applicant is a partnership or limited liability company, it  
3 shall set forth the name and address of each partner or member  
4 thereof and the name under which the business is to be conducted.  
5 If the applicant is a corporation, it shall set forth the name of  
6 the corporation and the name and address of each of its principal  
7 officers;

8 (2) The place or places, including the city or village  
9 and the street and street number, if any, where the business is to  
10 be conducted or the salesperson employed;

11 (3) If the application is for a motor vehicle dealer's  
12 license, trailer dealer's license, or motorcycle dealer's license  
13 (a) the name or names of the new motor vehicle or vehicles,  
14 new trailer or trailers, or new motorcycle or motorcycles which  
15 the applicant has been enfranchised to sell or exchange, (b) the  
16 name or names and address or addresses of the manufacturer or  
17 distributor who has enfranchised the applicant, (c) a current  
18 copy of each existing franchise, and (d) a description of the  
19 community; as defined in section 60-1401.02 designated in the  
20 franchise agreement ~~or, if the franchise agreement fails to~~  
21 ~~designate a community, (i) the community of the franchisee is~~  
22 ~~the area surrounding the location of the franchisee in a five-mile~~  
23 ~~radius from the dealership if the location is within a city of the~~  
24 ~~metropolitan class and (ii) the community of the franchisee is the~~  
25 ~~county in which the franchisee is located if the location is not~~

1 ~~within a city of the metropolitan class;~~

2 (4) If the application is for any of the above-named  
3 classes of dealer's licenses, the name and address of the  
4 person who is to act as a motor vehicle, trailer, or motorcycle  
5 salesperson under such license if issued;

6 (5) If the application is for a dealer's agent, the  
7 dealers for which the agent will be buying; and

8 (6) A description of the proposed place or places of  
9 business proposed to be operated in the event a license is granted  
10 together with (a) a statement whether the applicant owns or leases  
11 the proposed established place of business ~~as defined in section~~  
12 ~~60-1401.02~~ and, if the proposed established place of business is  
13 leased, the applicant shall file a true and correct copy of the  
14 lease agreement, and (b) a description of the facilities for the  
15 display of motor vehicles, trailers, and motorcycles;--

16 (7) If the application is for a manufacturer's license,  
17 a statement regarding the manufacturer's compliance with the Motor  
18 Vehicle Industry Regulation Act; and

19 (8) A statement that the licensee will comply with and  
20 be subject to the act, the rules and regulations adopted and  
21 promulgated by the board, and any amendments to the act and the  
22 rules and regulations existing on the date of application.

23 Subdivision (3)(d) of this section shall not be construed  
24 to require any licensee who has a franchise on August 31, 2003, to  
25 show good cause to be in the same community as any other licensee

1 who has a franchise of the same line-make in the same community on  
2 August 31, 2003.

3 Sec. 61. Section 60-1407.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-1407.01 (1) Upon the filing of any application, a  
6 staff member of the board shall endorse on it the date of filing.  
7 If no patent disqualification of the applicant is disclosed or if  
8 no valid objection to the granting of the application is apparent  
9 and if all requirements relative to the filing of the application  
10 appear to have been complied with, the chairperson of the board or  
11 executive director shall refer the application to a staff member  
12 for investigation and report. The report shall include:

13 (a) A statement as to whether or not the applicant or any  
14 person holding any financial interest in the applicant is for any  
15 reason disqualified by ~~Chapter 60, article 14,~~ the Motor Vehicle  
16 Industry Regulation Act from obtaining or exercising a license and  
17 whether or not the applicant has complied with all the requirements  
18 of ~~Chapter 60, article 14,~~ the act relative to the making and  
19 filing of his or her application;

20 (b) Information relating to any and all other matters and  
21 things which in the judgment of the staff member pertain to or  
22 affect the matter of the application or the issuance or exercise of  
23 the license applied for; and

24 (c) In the case of an application for a dealer's license:

25 (i) A description of the premises intended to become the

1 licensed premises and of the equipment and surrounding conditions;

2 (ii) If the applicant has held a prior dealer's license  
3 for the same or any other premises within two years past, a  
4 statement as to the manner in which the premises have been operated  
5 and the business conducted under the previous license; and

6 (iii) If the applicant proposes to engage in the business  
7 of selling new motor vehicles, motorcycles, or trailers, a written  
8 statement from the applicable manufacturer, factory branch, factory  
9 representative, distributor, distributor branch, or distributor  
10 representative, or such other evidence as prescribed by the board,  
11 that the applicant is authorized to sell or distribute such new  
12 motor vehicles, motorcycles, or trailers.

13 (2) After the filing of the report, the board may  
14 interview the applicant. Notice of such interview shall be given at  
15 least ten days prior to the interview.

16 (3) The executive director shall not issue or renew a  
17 license if the applicant or licensee does not (a) maintain an  
18 established place of business, (b) meet the requirement for a bond  
19 pursuant to section 60-1419, (c) present a certificate or policy  
20 of insurance written by an insurance carrier duly authorized to  
21 do business in this state which gives the effective dates of  
22 coverage indicating that it is in force, which covers the fleet of  
23 motor vehicles owned by the applicant or licensee in the ordinary  
24 course of business, and which provides liability coverage as  
25 described in sections 60-534 and 60-538, and (d) present evidence

1 of compliance with the insurance requirements of the Nebraska  
2 Workers' Compensation Act, and (e) meet requirements for licensure  
3 and comply with the Motor Vehicle Industry Regulation Act, the  
4 rules and regulations adopted and promulgated by the board, and any  
5 amendments to the act and the rules and regulations. The executive  
6 director shall refuse to renew a motor vehicle dealer's license if  
7 the dealer cannot prove that he or she sold at least five motor  
8 vehicles during the previous licensing period. The requirement  
9 under subdivision (c) of this subsection for a certificate or  
10 policy of insurance shall not apply to trailer dealers.

11 (4) The board shall revoke the license of any licensee  
12 if, after December 31, 1991, it comes to the attention of the board  
13 that the policy of motor vehicle liability coverage required under  
14 subdivision (3)(c) of this section is no longer in force.

15 (5) Nothing in this section shall be construed to change  
16 any existing liability or to create any new liability.

17 Sec. 62. Section 60-1407.02, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-1407.02 It shall be unlawful for any person holding  
20 a Nebraska sales tax permit, except a dealer licensed pursuant  
21 to ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation  
22 Act, to sell or offer for sale any motor vehicle, motorcycle,  
23 or trailer, not owned by such person, on the premises covered by  
24 such sales tax permit. Any person violating ~~the provisions of~~ this  
25 section shall be guilty of a Class IV misdemeanor.

1           Sec. 63. Section 60-1407.03, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-1407.03 Notwithstanding the other provisions of  
4 ~~Chapter 60, article 14, the Motor Vehicle Industry Regulation Act~~  
5 restricting sales to an established place of business, any motor  
6 vehicle, motorcycle, or trailer dealer licensed in accordance with  
7 ~~Chapter 60, article 14, the act~~ may be granted a special permit  
8 to display and sell passenger cars, motor vehicles, motorcycles,  
9 trailers, or self-propelled motor homes at fairs, sports shows,  
10 vacation shows, and similar events, subject to the conditions  
11 established by sections 60-1407.02 to 60-1407.04.

12           Sec. 64. Section 60-1407.04, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           60-1407.04 The event for which ~~such~~ a permit is sought  
15 under section 60-1407.03 must be approved by the board. In  
16 determining approval, the board shall consider the size, location,  
17 duration, sponsors, and purpose of the event. Approval shall not be  
18 given to any event sponsored solely by a dealer or dealers, or for  
19 which the sole or primary purpose is the sale of motor vehicles,  
20 motorcycles, trailers, or self-propelled mobile homes.

21           Sec. 65. Section 60-1409, Reissue Revised Statutes of  
22 Nebraska, as amended by section 36, Legislative Bill 3, One Hundred  
23 First Legislature, First Special Session, 2009, is amended to read:

24           60-1409 The Nebraska Motor Vehicle Industry Licensing  
25 Fund is created. All fees collected under ~~Chapter 60, article 14,~~

1 the Motor Vehicle Industry Regulation Act shall be remitted by  
2 the board, as collected, to the State Treasurer for credit to the  
3 fund. Such fund shall be appropriated by the Legislature for the  
4 operations of the Nebraska Motor Vehicle Industry Licensing Board  
5 and shall be paid out from time to time by warrants of the Director  
6 of Administrative Services on the State Treasurer for authorized  
7 expenditures upon duly itemized vouchers executed as provided by  
8 law and approved by the chairperson of the board or the executive  
9 secretary, except that transfers from the fund to the General Fund  
10 may be made at the direction of the Legislature through June 30,  
11 2011. The expenses of conducting the office must always be kept  
12 within the income collected and reported to the State Treasurer by  
13 such board. Such office and expense thereof shall not be supported  
14 or paid from the General Fund, and all money deposited in the  
15 Nebraska Motor Vehicle Industry Licensing Fund shall be expended  
16 only for such office and expense thereof and, unless determined by  
17 the board, it shall not be required to expend any funds to any  
18 person or any other governmental agency.

19           Any money in the Nebraska Motor Vehicle Industry  
20 Licensing Fund available for investment shall be invested by the  
21 state investment officer pursuant to the Nebraska Capital Expansion  
22 Act and the Nebraska State Funds Investment Act. The fund shall be  
23 audited annually by the Auditor of Public Accounts.

24           ~~The State Treasurer shall transfer five hundred thousand~~  
25 ~~dollars from the Nebraska Motor Vehicle Industry Licensing Fund to~~

1 ~~the General Fund within fifteen days after July 1, 2002.~~

2           Sec. 66. Section 60-1411.01, Revised Statutes Cumulative  
3 Supplement, 2008, is amended to read:

4           60-1411.01 ~~(1) Until January 1, 2008, to pay the expenses~~  
5 ~~of the administration, operation, maintenance, and enforcement of~~  
6 ~~sections 60-1401.01 to 60-1440, the board shall collect with each~~  
7 ~~application for each class of license fees not exceeding the~~  
8 ~~following amounts:~~

9           ~~(a) Motor vehicle dealer's license, two hundred dollars,~~

10           ~~(b) Supplemental motor vehicle dealer's license, ten~~  
11 ~~dollars,~~

12           ~~(c) Motor vehicle or motorcycle salesperson's license,~~  
13 ~~ten dollars,~~

14           ~~(d) Dealer's agent license, fifty dollars,~~

15           ~~(e) Motor vehicle, motorcycle, or trailer manufacturer's~~  
16 ~~license, three hundred dollars,~~

17           ~~(f) Distributor's license, three hundred dollars,~~

18           ~~(g) Factory representative's license, ten dollars,~~

19           ~~(h) Distributor representative's license, ten dollars,~~

20           ~~(i) Finance company's license, two hundred dollars,~~

21           ~~(j) Wrecker or salvage dealer's license, one hundred~~  
22 ~~dollars,~~

23           ~~(k) Factory branch license, one hundred dollars,~~

24           ~~(l) Motorcycle dealer's license, two hundred dollars,~~

25           ~~(m) Motor vehicle auction dealer's license, two hundred~~

1 ~~dollars, and~~

2 ~~(n) Trailer dealer's license, two hundred dollars.~~

3 ~~(2) On and after January 1, 2008, to (1) To pay~~  
4 ~~the expenses of the administration, operation, maintenance, and~~  
5 ~~enforcement of sections 60-1401.01 to 60-1440, the Motor Vehicle~~  
6 ~~Industry Regulation Act, the board shall collect with each~~  
7 ~~application for each class of license fees not exceeding the~~  
8 ~~following amounts:~~

9 (a) Motor vehicle dealer's license, four hundred dollars;

10 (b) Supplemental motor vehicle dealer's license, twenty  
11 dollars;

12 (c) Motor vehicle or motorcycle salesperson's license,  
13 twenty dollars;

14 (d) Dealer's agent license, one hundred dollars;

15 (e) Motor vehicle, motorcycle, or trailer manufacturer's  
16 license, six hundred dollars;

17 (f) Distributor's license, six hundred dollars;

18 (g) Factory representative's license, twenty dollars;

19 (h) Distributor representative's license, twenty dollars;

20 (i) Finance company's license, four hundred dollars;

21 (j) Wrecker or salvage dealer's license, two hundred  
22 dollars;

23 (k) Factory branch license, two hundred dollars;

24 (l) Motorcycle dealer's license, four hundred dollars;

25 (m) Motor vehicle auction dealer's license, four hundred

1 dollars; and

2 (n) Trailer dealer's license, four hundred dollars.

3 ~~(3)~~ (2) The fees shall be fixed by the board and  
4 shall not exceed the amount actually necessary to sustain the  
5 administration, operation, maintenance, and enforcement of ~~sections~~  
6 ~~60-1401.01 to 60-1440.~~ the act.

7 ~~(4)~~ (3) Such licenses, if issued, shall expire on  
8 December 31 next following the date of the issuance thereof.  
9 Any motor vehicle, motorcycle, or trailer dealer changing its  
10 location shall not be required to obtain a new license if the new  
11 location is within the same city limits or county, all requirements  
12 of law are complied with, and a fee of twenty-five dollars is  
13 paid, but any change of ownership of any licensee shall require  
14 a new application for a license and a new license. Change of  
15 name of licensee without change of ownership shall require the  
16 licensee to obtain a new license and pay a fee of five dollars.  
17 Applications shall be made each year for a new or renewal license.  
18 If the applicant is an individual, the application shall include  
19 the applicant's social security number.

20 Sec. 67. Section 60-1411.02, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22 60-1411.02 The board may, upon its own motion, and shall,  
23 upon a sworn complaint in writing of any person, investigate  
24 the actions of any person acting, registered, or licensed under  
25 ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation

1 Act as a motor vehicle dealer, trailer dealer, motor vehicle or  
2 trailer salesperson, dealer's agent, manufacturer, factory branch,  
3 distributor, factory representative, distributor representative,  
4 supplemental motor vehicle dealer, wrecker or salvage dealer,  
5 finance company, motorcycle dealer, or motor vehicle auction  
6 dealer or operating without a registration or license when such  
7 registration or license is required. The board may deny any  
8 application for a license, may revoke or suspend a license, may  
9 place the licensee or registrant on probation, may assess an  
10 administrative fine in an amount not to exceed five thousand  
11 dollars per violation, or may take any combination of such actions  
12 if the violator, applicant, registrant, or licensee including any  
13 officer, stockholder, partner, or limited liability company member  
14 or any person having any financial interest in the violator,  
15 applicant, registrant, or licensee:

16 (1) Has had any license issued under ~~Chapter 60~~, article  
17 ~~14~~, the act revoked or suspended and, if the license has been  
18 suspended, has not complied with the terms of suspension;

19 (2) Has knowingly purchased, sold, or done business in  
20 stolen motor vehicles, motorcycles, or trailers or parts therefor;

21 (3) Has failed to provide and maintain an established  
22 place of business;

23 (4) Has been found guilty of any felony which has not  
24 been pardoned, has been found guilty of any misdemeanor concerning  
25 fraud or conversion, or has suffered any judgment in any civil

1 action involving fraud, misrepresentation, or conversion. In the  
2 event felony charges are pending against an applicant, the board  
3 may refuse to issue a license to the applicant until there has been  
4 a final determination of the charges;

5 (5) Has made a false material statement in his or her  
6 application or any data attached to the application or to any  
7 investigator or employee of the board;

8 (6) Has willfully failed to perform any written agreement  
9 with any consumer or retail buyer;

10 (7) Has made a fraudulent sale, transaction, or  
11 repossession, or created a fraudulent security interest as defined  
12 in the Uniform Commercial Code, in a motor vehicle, trailer, or  
13 motorcycle;

14 (8) Has failed to notify the board of a change in the  
15 location of his or her established place or places of business and  
16 in the case of a salesperson has failed to notify the board of any  
17 change in his or her employment;

18 (9) Has willfully failed to deliver to a purchaser a  
19 proper certificate of ownership for a motor vehicle, trailer, or  
20 motorcycle sold by the licensee or to refund the full purchase  
21 price if the purchaser cannot legally obtain proper certification  
22 of ownership within thirty days;

23 (10) Has forged the signature of the registered or legal  
24 owner on a certificate of title;

25 (11) Has failed to comply with ~~Chapter 60, article 14,~~

1 the act and any orders, rules, or regulations of the board adopted  
2 and promulgated under ~~Chapter 60,~~ ~~article 14,~~ the act;

3 (12) Has failed to comply with the advertising and  
4 selling standards established in section 60-1411.03;

5 (13) Has failed to comply with any provisions of the  
6 Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry  
7 Regulation Act, the Motor Vehicle Registration Act, ~~Chapter 60,~~  
8 ~~article 14,~~ or the rules or regulations adopted and promulgated by  
9 the board pursuant to ~~Chapter 60,~~ ~~article 14,~~ the Motor Vehicle  
10 Industry Regulation Act;

11 (14) Has failed to comply with any provision of Chapter  
12 71, article 46, or with any code, standard, rule, or regulation  
13 adopted or made under the authority of or pursuant to Chapter 71,  
14 article 46;

15 (15) Has willfully defrauded any retail buyer or other  
16 person in the conduct of the licensee's business;

17 (16) Has employed any unlicensed salesperson or  
18 salespersons;

19 (17) Has failed to comply with sections 60-190 to 60-196;

20 (18) Has engaged in any unfair methods of competition or  
21 unfair or deceptive acts or practices prohibited under the Uniform  
22 Deceptive Trade Practices Act; or

23 (19) Has conspired, as defined in section 28-202, with  
24 other persons to process certificates of title in violation of the  
25 Motor Vehicle Certificate of Title Act.

1           If the violator, applicant, registrant, or licensee is a  
2 publicly held corporation, the board's authority shall extend only  
3 to the corporation and its managing officers and directors.

4           Sec. 68. Section 60-1411.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           60-1411.03 It shall be unlawful for any licensee or motor  
7 vehicle dealer to engage, directly or indirectly, in the following  
8 acts:

9           (1) To advertise and offer any year, make, engine size,  
10 model, type, equipment, price, trade-in allowance, or terms or make  
11 other claims or conditions pertaining to the sale, leasing, or  
12 rental of motor vehicles, motorcycles, and trailers which are not  
13 truthful and clearly set forth;

14           (2) To advertise for sale, lease, or rental a specific  
15 motor vehicle, motorcycle, or trailer which is not in the  
16 possession of the dealer, owner, or advertiser and willingly  
17 shown and sold, as advertised, illustrated, or described, at the  
18 advertised price and terms, at the advertised address. Unless  
19 otherwise specified, a motor vehicle, motorcycle, or trailer  
20 advertised for sale shall be in operable condition and, on request,  
21 the advertiser thereof shall show records to substantiate an  
22 advertised offer;

23           (3) To advertise a new motor vehicle, motorcycle, or  
24 trailer at a price which does not include standard equipment with  
25 which it is fitted or is ordinarily fitted, without disclosing

1 such fact, or eliminating any such equipment for the purpose of  
2 advertising a low price;

3 (4) To advertise (a) that the advertiser's prices are  
4 always or generally lower than competitive prices and not met  
5 or equalled by others or that the advertiser always or generally  
6 undersells competitors, (b) that the advertiser's prices are always  
7 or generally the lowest or that no other dealer has lower prices,  
8 (c) that the advertiser is never undersold, or (d) that no other  
9 advertiser or dealer will have a lower price;

10 (5) To advertise and make statements such as, Write Your  
11 Own Deal, Name Your Own Price, or Name Your Own Monthly Payments  
12 and other statements of a similar nature;

13 (6) To advertise by making disparaging comparisons  
14 with competitors' services, quality, price, products, or business  
15 methods;

16 (7) To advertise by making the layout, headlines,  
17 illustrations, and type size of an advertisement so as to convey  
18 or permit an erroneous impression as to which motor vehicle,  
19 motorcycle, or trailer or motor vehicles, motorcycles, or trailers  
20 are offered at featured prices. No advertised offer, expression,  
21 or display of price, terms, downpayment, trade-in allowance, cash  
22 difference, or savings shall be misleading by itself, and any  
23 qualification to such offer, expression, or display shall be  
24 clearly and conspicuously set forth in comparative type size and  
25 style, location, and layout to prevent deception;

1           (8) To advertise the price of a motor vehicle,  
2 motorcycle, or trailer without including all charges which the  
3 customer must pay for the motor vehicle, motorcycle, or trailer,  
4 excepting state and local taxes and license, title, and other  
5 fees. It shall be unlawful to advertise prices described as  
6 unpaid balance unless they are the full cash selling price and to  
7 advertise price which is not the full selling price even though  
8 qualified with expressions such as with trade, with acceptable  
9 trade, or other similar words;

10           (9) To advertise as at cost, below cost, below invoice,  
11 or wholesale, unless the term used is strictly construed that the  
12 word cost as used in this subdivision or in a similar meaning is  
13 the actual price paid by the advertiser to the manufacturer for the  
14 motor vehicle, motorcycle, or trailer so advertised;

15           (10) To advertise claims that Everybody Financed, No  
16 Credit Rejected, or We Finance Anyone and other similar affirmative  
17 statements;

18           (11) To advertise a specific trade-in amount or range of  
19 amounts;

20           (12) To advertise the words Finance, Loan, or Discounts  
21 or others of similar import in the firm name or trade style of a  
22 person offering motor vehicles, motorcycles, and trailers for sale  
23 unless such person is actually engaged in the finance business and  
24 offering only bona fide repossessed motor vehicles, motorcycles,  
25 and trailers. It shall be unlawful to use the word Repossessed

1 in the name or trade style of a firm in the advertising of motor  
2 vehicles, motorcycles, and trailers sold by such a company unless  
3 they are bona fide repossessions sold for unpaid balances due only.  
4 Advertisers offering repossessed automobiles for sale shall be able  
5 to offer proof of repossession;

6 (13) To advertise the term Authorized Dealer in any  
7 way as to mislead as to the make or makes of motor vehicles,  
8 motorcycles, or trailers for which a dealer is franchised to sell  
9 at retail;

10 (14) To advertise or sell new motor vehicles,  
11 motorcycles, and trailers by any person not enfranchised by the  
12 manufacturer of the motor vehicle, motorcycle, or trailer offered  
13 without disclosing the fact in each advertisement which includes  
14 the motor vehicle, motorcycle, or trailer, and in writing in the  
15 lease or purchase agreement that the licensee or motor vehicle  
16 dealer is not enfranchised by the manufacturer for service under  
17 factory warranty provisions. No person shall transfer ownership  
18 of a motor vehicle by reassignment on a manufacturer's statement  
19 of origin unless the person is enfranchised to do so by the  
20 manufacturer of the motor vehicle;

21 (15) To advertise used motor vehicles, motorcycles, or  
22 trailers so as to create the impression that they are new.  
23 Used motor vehicles, motorcycles, and trailers of the current  
24 and preceding model year shall be clearly identified as Used,  
25 Executive Driven, Demonstrator, or Driver Training, and lease cars,

1 taxicabs, fleet vehicles, police motor vehicles, or motorcycles  
2 as may be the case and descriptions such as Low Mileage or  
3 Slightly Driven may also be applied only when correct. The  
4 terms demonstrator's, executive's, and official's motor vehicles,  
5 motorcycles, or trailers shall not be used unless (a) they have  
6 never been sold to a member of the public, (b) such terms describe  
7 motor vehicles, motorcycles, or trailers used by new motor vehicle,  
8 motorcycle, or trailer dealers or their employees for demonstrating  
9 performance ability, and (c) such vehicles are advertised for  
10 sale as such only by an authorized dealer in the same make of  
11 motor vehicle, motorcycle, or trailer. Phrases such as Last of  
12 the Remaining, Closeout, or Final Clearance and others of similar  
13 import shall not be used in advertising used motor vehicles,  
14 motorcycles, and trailers so as to convey the impression that the  
15 motor vehicles, motorcycles, and trailers offered are holdover new  
16 motor vehicles, motorcycles, and trailers. When new and used motor  
17 vehicles, motorcycles, and trailers of the current and preceding  
18 model year are offered in the same advertisement, such offers shall  
19 be clearly separated by description, layout, and art treatment;

20 (16) To advertise executives' or officials' motor  
21 vehicles, motorcycles, or trailers unless they have been used  
22 exclusively by the personnel or executive of the motor vehicle,  
23 motorcycle, or trailer manufacturer or by an executive of any  
24 authorized dealer of the same make thereof and such motor vehicles,  
25 motorcycles, and trailers have not been sold to a member of the

1 public prior to the appearance of the advertisement;

2 (17) To advertise motor vehicles, motorcycles, and  
3 trailers owned by or in the possession of dealers without the name  
4 of the dealership or in any other manner so as to convey the  
5 impression that they are being offered by private parties;

6 (18) To advertise the term wholesale in connection with  
7 the retail offering of used motor vehicles, motorcycles, and  
8 trailers;

9 (19) To advertise the terms auction or auction special  
10 and other terms of similar import unless such terms are used in  
11 connection with motor vehicles, motorcycles, and trailers offered  
12 or sold at a bona fide auction to the highest bidder and under such  
13 other specific conditions as may be required in ~~Chapter 60,~~ article  
14 14, the Motor Vehicle Industry Regulation Act;

15 (20) To advertise free driving trial unless it means a  
16 trial without obligation of any kind and that the motor vehicle,  
17 motorcycle, or trailer may be returned in the period specified  
18 without obligation or cost. A driving trial advertised on a  
19 money back basis or with privilege of exchange or applying money  
20 paid on another motor vehicle, motorcycle, or trailer shall be  
21 so explained. Terms and conditions of driving trials, free or  
22 otherwise, shall be set forth in writing for the customer;

23 (21) To advertise (a) the term Manufacturer's Warranty  
24 unless it is used in advertising only in reference to cars covered  
25 by a bona fide factory warranty for that particular make of motor

1 vehicle, motorcycle, or trailer. In the event only a portion of  
2 such warranty is remaining, then reference to a warranty may be  
3 used only if stated that that unused portion of the warranty  
4 is still in effect, (b) the term New Car Guarantee except in  
5 connection with new motor vehicles, motorcycles, and trailers,  
6 and (c) the terms Ninety-day Warranty, Fifty-fifty Guarantee,  
7 Three-hundred-mile Guarantee, and Six-month Warranty, unless the  
8 major terms and exclusions are sufficiently described in the  
9 advertisement;

10 (22) To advertise representations inconsistent with or  
11 contrary to the fact that a motor vehicle, motorcycle, or trailer  
12 is sold as is and without a guarantee. The customer contract shall  
13 clearly indicate when a car will be sold with a guarantee and what  
14 that guarantee is and similarly shall clearly indicate when a car  
15 is sold as is and without a guarantee; and

16 (23) To advertise or to make any statement, declaration,  
17 or representation in any advertisement that cannot be substantiated  
18 in fact, and the burden of proof of the factual basis for the  
19 statement, declaration, or representation shall be on the licensee  
20 or motor vehicle dealer and not on the board.

21 Sec. 69. Section 60-1415, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 60-1415 (1) The board shall state in writing, officially  
24 signed by the chairperson or vice-chairperson and the executive  
25 director, its findings and determination after such hearing and

1 its order in the matter. If the board determines and orders  
2 that an applicant is not qualified to receive a license or  
3 registration, no license or registration shall be granted. If the  
4 board determines that the party has willfully or through undue  
5 negligence been guilty of any violation of ~~Chapter 60,~~ ~~article 14,~~  
6 the Motor Vehicle Industry Regulation Act or any rule or regulation  
7 adopted and promulgated by the board under authority of ~~Chapter~~  
8 ~~60,~~ ~~article 14,~~ the act, the board may suspend or revoke the  
9 license or registration, place the party on probation, assess an  
10 administrative fine, or take any combination of such actions. In  
11 determining the amount of the fine, the board may consider the  
12 appropriateness of the penalty with respect to the gravity of the  
13 violation, the history of previous violations, and any attempt made  
14 by the party to retaliate against another party for seeking relief  
15 pursuant to the laws, rules, or regulations relating to motor  
16 vehicle industry licensing. The board may also, after hearing,  
17 assess an additional administrative fine in an amount not to exceed  
18 five thousand dollars for each day a violation continues if a  
19 party fails to obey a direct order of the board or repeats the  
20 same violation within forty-eight months of the previous violation.  
21 The imposition of any such additional administrative fine shall  
22 commence one month after the initial order of the board or any  
23 final order on appeal if taken for failure to obey a direct order  
24 of the board and on the date of the second or subsequent violation  
25 for repeat violations within forty-eight months. The board may make

1 a demand on a violator for restitution to a harmed consumer. The  
2 party may appeal the decision of the board. The appeal shall be in  
3 accordance with the Administrative Procedure Act.

4 (2) ~~All money collected by the board as an administrative~~  
5 ~~fine shall be remitted on a monthly basis to the State Treasurer~~  
6 ~~for credit to the permanent school fund. The board shall remit~~  
7 ~~administrative fines to the State Treasurer on a monthly basis~~  
8 ~~for distribution in accordance with Article VII, section 5, of~~  
9 ~~the Constitution of Nebraska.~~ Any administrative fine imposed under  
10 this section and unpaid shall constitute a debt to the State of  
11 Nebraska which may be collected by lien foreclosure or sued for and  
12 recovered in any proper form of action, in the name of the State of  
13 Nebraska, in the district court of the county in which the violator  
14 resides or owns property.

15 Sec. 70. Section 60-1415.01, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-1415.01 Whenever the board shall believe from evidence  
18 satisfactory to it that any person has violated or is violating any  
19 provisions of ~~Chapter 60, article 14,~~ the Motor Vehicle Industry  
20 Regulation Act, the board may, in addition to any other remedy,  
21 bring an action in the name and on behalf of the State of Nebraska  
22 against such person and any other person concerned in or in any way  
23 participating in or about to participate in practices or acts in  
24 violation of ~~Chapter 60, article 14,~~ the act to enjoin such person  
25 and such other person from continuing the same. In any such action,

1 the board may apply for and on due showing be entitled to have  
2 issued the court's subpoena, requiring forthwith the appearance of  
3 any defendant, ~~his~~ and the defendant's agent and employees and the  
4 production of documents, books, and records as may appear necessary  
5 for the hearing of such petition to testify and give evidence  
6 concerning the acts or conduct of practices or things complained  
7 of in such application for injunction. In such action an order  
8 or judgment may be entered awarding such preliminary or final  
9 injunctions as may be proper.

10           Sec. 71. Section 60-1417.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           60-1417.02 (1) Any person who engages in or attempts to  
13 engage in the selling of motor vehicles or trailers at an auction  
14 licensed pursuant to ~~Chapter 60, article 14,~~ the Motor Vehicle  
15 Industry Regulation Act shall register to do so. Registration shall  
16 be made on a form provided by the auction dealer and approved  
17 by the board. A copy of the registration shall serve as proof of  
18 registration for the calendar year. The registration information  
19 shall be made available and accessible to the board by the auction  
20 dealer within seventy-two hours after the registrant has met the  
21 registration requirements and such registration is issued. Such  
22 registration information shall be maintained and made accessible to  
23 the board by the auction dealer for two years. It shall be the duty  
24 of the auction dealer to ensure that no seller participates in any  
25 sales activities until and unless registration has been received

1 by the auction dealer or unless such seller is otherwise licensed  
2 under ~~Chapter 60, article 14, the act.~~

3 (2) The information required on the registration form  
4 shall include, but not be limited to, the following: (a) The  
5 legal name of the registrant; (b) the registrant's current mailing  
6 address and telephone number; (c) the business name and address of  
7 the person with whom the registrant is associated; and (d) whether  
8 or not the registrant is bonded.

9 (3) The registration form shall be signed by the  
10 registrant and an authorized representative of the auction and  
11 shall be notarized by a notary public.

12 (4) Any person who is convicted of any violation of  
13 ~~Chapter 60, article 14, the act~~ pursuant to section 60-1411.02~~7~~ may  
14 be denied the right to be registered at all licensed auctions of  
15 this state following a hearing before the board as prescribed in  
16 section 60-1413.

17 Sec. 72. Section 60-1420, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-1420 (1) Except as provided in subsection (2) of this  
20 section, no franchisor shall terminate or refuse to continue any  
21 franchise unless the franchisor has first established, in a hearing  
22 held pursuant to section 60-1425, that:

23 (a) The franchisor has good cause for termination or  
24 noncontinuance;

25 (b) Upon termination or noncontinuance, another franchise

1 in the same line-make will become effective in the same community,  
2 without diminution of the franchisee's service formerly provided,  
3 or that the community cannot be reasonably expected to support such  
4 a dealership; and

5 (c) The franchisor is willing and able to comply with  
6 section 60-1430.02.

7 (2) Upon providing good and sufficient evidence to the  
8 board, a franchisor may terminate a franchise without such hearing

9 (a) for a particular line-make if the franchisor discontinues that  
10 line-make, (b) if the franchisee's license as a motor vehicle,  
11 combination motor vehicle and trailer, motorcycle, or trailer  
12 dealer is revoked pursuant to ~~Chapter 60, article 14, the Motor~~  
13 Vehicle Industry Regulation Act, or (c) upon a mutual written  
14 agreement of the franchisor and franchisee.

15 Sec. 73. Section 60-1421, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-1421 If franchisor is permitted to terminate or not  
18 continue a franchise, and is further permitted not to enter into  
19 a franchise, for the line-make in the community, no franchise  
20 shall thereafter be entered into for the sale of a motor vehicle,  
21 combination motor vehicle and trailer, motorcycle, or trailer  
22 dealer of that line-make in the community, unless the franchisor  
23 has first established, in a hearing held under the ~~provisions of~~  
24 Chapter 60, article 14, Motor Vehicle Industry Regulation Act that  
25 there has been a change of circumstances so that the community at

1 that time can be reasonably expected to support the dealership.

2 Sec. 74. Section 60-1422, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 60-1422 No franchisor shall enter into any franchise  
5 for the purpose of establishing an additional motor vehicle,  
6 combination motor vehicle and trailer, motorcycle, or trailer  
7 dealership or warranty repair service facility, in any community in  
8 which the same line-make is then represented, unless the franchisor  
9 has first established in a hearing held under ~~Chapter 60,~~ article  
10 ~~14,~~ the Motor Vehicle Industry Regulation Act that there is  
11 good cause for such additional motor vehicle, combination motor  
12 vehicle and trailer, motorcycle, or trailer dealership under such  
13 franchise, or warranty repair service facility, and that it is in  
14 the public interest.

15 Sec. 75. Section 60-1427, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-1427 Upon hearing, the franchisor shall have the  
18 burden of proof to establish that under the ~~provisions of Chapter~~  
19 ~~60, article 14,~~ the Motor Vehicle Industry Regulation Act the  
20 franchisor should be granted permission to terminate or not  
21 continue the franchise, or to enter into a franchise establishing  
22 an additional motor vehicle, combination motor vehicle and trailer,  
23 motorcycle, or trailer dealership.

24 Nothing contained in ~~Chapter 60, article 14,~~ the act  
25 shall be construed to require or authorize any investigation by

1 the board of any matter before the board under the provisions of  
2 sections 60-1420 to 60-1435. Upon hearing, the board shall hear  
3 the evidence introduced by the parties and shall make its decision  
4 solely upon the record so made.

5 Sec. 76. Section 60-1428, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 60-1428 The rules of civil procedure relating to  
8 discovery and inspection shall apply to hearings held under the  
9 ~~provisions of Chapter 60, article 14, Motor Vehicle Industry~~  
10 Regulation Act, and the board may issue orders to give effect to  
11 such rules.

12 If issues are raised which would involve violations of  
13 any state or federal antitrust or price-fixing law, all discovery  
14 and inspection proceedings which would be available under such  
15 issues in a state or federal court action shall be available to  
16 the parties to the hearing, and the board may issue orders to give  
17 effect to such proceedings.

18 Evidence which would be admissible under the issues in  
19 a state or federal court action shall be admissible in a hearing  
20 held by the board. The board shall apportion all costs between the  
21 parties.

22 Sec. 77. Section 60-1430, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 60-1430 Notwithstanding the terms, provisions, or  
25 conditions of any agreement or franchise, subject to subdivision

1 (2) of section 60-1429, in the event of the sale or a contract for  
2 sale or transfer of ownership of the franchisee's dealership by  
3 sale or transfer of the business or by stock transfer or in the  
4 event of change in the executive management of the franchisee's  
5 dealership, the franchisor shall give effect to such a change in  
6 the franchise unless (1) the transfer of the franchisee's license  
7 under ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation  
8 Act is denied or the new owner is unable to obtain a license under  
9 ~~Chapter 60, article 14,~~ the act, as the case may be, or (2) the  
10 proposed sale or transfer of the business or change of executive  
11 management will be substantially detrimental to the distribution  
12 of the franchisor's motor vehicles, combination motor vehicles and  
13 trailers, motorcycles, or trailer products or to competition in the  
14 community if the franchisor has given written notice of such fact  
15 to the franchisee within sixty days of receipt by the franchisor of  
16 information reasonably necessary to evaluate the proposed change.

17 Sec. 78. Section 60-1430.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 60-1430.01 (1) Any designated family member of a deceased  
20 or incapacitated new motor vehicle dealer may succeed the dealer  
21 in the ownership or operation of the dealership under the  
22 existing dealer agreement if the designated family member gives  
23 the manufacturer or distributor written notice of his or her  
24 intention to succeed to the dealership within one hundred twenty  
25 days after the dealer's death or incapacity, agrees to be bound

1 by all of the terms and conditions of the dealer agreement, and  
2 meets the current criteria generally applied by the manufacturer or  
3 distributor in qualifying new motor vehicle dealers. A manufacturer  
4 or distributor may refuse to honor the existing dealer agreement  
5 with the designated family member only for good cause.

6 (2) The manufacturer or distributor may request from  
7 a designated family member such personal financial data as is  
8 reasonably necessary to determine whether the existing dealer  
9 agreement should be honored. The designated family member shall  
10 supply the personal and financial data promptly upon the request.

11 (3) If a manufacturer or distributor believes that  
12 good cause exists for refusing to honor that succession, the  
13 manufacturer or distributor may, within sixty days after receipt  
14 of the notice of the designated family member's intent to succeed  
15 the dealer in the ownership and operation of the dealership, or  
16 within sixty days after the receipt of the requested personal  
17 and financial data, whichever is later, serve upon the designated  
18 family member notice of its refusal to approve the succession.

19 (4) The notice of the manufacturer or distributor  
20 provided in subsection (3) of this section shall state the  
21 specific ground for the refusal to approve the succession and that  
22 discontinuance of the agreement shall take effect not less than  
23 ninety days after the date the notice is served.

24 (5) If notice of refusal is not served within the  
25 sixty days provided for in subsection (3) of this section, the

1 dealer agreement shall continue in effect and shall be subject to  
2 termination only as otherwise permitted by ~~Chapter 60, article 14,~~  
3 the Motor Vehicle Industry Regulation Act.

4 (6) This section shall not preclude a new motor vehicle  
5 dealer from designating any person as his or her successor by  
6 written instrument filed with the manufacturer or distributor,  
7 and if such an instrument is filed, it alone shall determine  
8 the succession rights to the management and operation of the  
9 dealership.

10 Sec. 79. Section 60-1430.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 60-1430.02 (1) Upon the termination, cancellation, or  
13 noncontinuation of a franchise by the franchisor or franchisee  
14 pursuant to ~~Chapter 60, article 14,~~ the Motor Vehicle Industry  
15 Regulation Act, the franchisor shall pay the franchisee:

16 (a) The dealer cost, plus any charges made by the  
17 franchisor for distribution, delivery, and taxes, less all  
18 allowances paid or credited to the franchisee by the franchisor, of  
19 unused, undamaged, and unsold motor vehicles in the franchisee's  
20 inventory acquired from the franchisor or another franchisee of the  
21 same line and made within the previous twelve months;

22 (b) The dealer cost, less all allowances paid or credited  
23 to the franchisee by the franchisor, for all unused, undamaged,  
24 and unsold supplies, parts, and accessories in original packaging,  
25 except that (i) in the case of sheet metal, a comparable substitute

1 for original packaging may be used if such supply, part, or  
2 accessory is offered for sale by the franchisor and was acquired  
3 from the franchisor or the predecessor franchisee as a part of the  
4 franchisee's initial inventory and (ii) in the case of a motorcycle  
5 franchise, the payment for such supplies, parts, and accessories  
6 shall be based upon the currently published dealer cost for all  
7 unused, undamaged, and unsold supplies, parts, and accessories  
8 currently offered for sale by the franchisor and originally  
9 acquired from the franchisor or the predecessor franchisee as a  
10 part of the franchisee's initial inventory, and all such supplies,  
11 parts, and accessories shall be currently identifiable and labeled  
12 and in the original packaging or a comparable substitute for the  
13 original packaging;

14 (c) The fair market value of each undamaged sign owned by  
15 the franchisee which bears a common name, trade name, or trademark  
16 of the franchisor if acquisition of such sign was recommended or  
17 required by the franchisor;

18 (d) The fair market value of all special tools,  
19 equipment, and furnishings acquired from the franchisor or sources  
20 approved by the franchisor which were recommended and required by  
21 the franchisor and are in good and usable condition except for  
22 reasonable wear and tear; and

23 (e) The cost of transporting, handling, packing, and  
24 loading motor vehicles, supplies, parts, accessories, signs,  
25 special tools, equipment, and furnishings.

1           (2) The franchisor shall pay the franchisee the amounts  
2 specified in subsection (1) of this section within ninety days  
3 after the tender of the property if the franchisee has clear title  
4 to the property and is in a position to convey that title to  
5 the franchisor. This section shall not apply to a termination or  
6 noncontinuation of a franchise that is implemented as a result of  
7 the sale of the assets or stock of the franchisee.

8           (3)(a) If the termination, cancellation, or nonrenewal  
9 of a franchise is the result of the termination, elimination,  
10 or cessation of a line-make by the manufacturer, distributor, or  
11 factory branch, then, in addition to the payments to the franchisee  
12 pursuant to subsection (1) of this section, the manufacturer,  
13 distributor, or factory branch shall be liable to the franchisee  
14 for an amount at least equivalent to the fair market value of the  
15 franchise for the line-make, which shall be the greater of that  
16 value determined as of (i) the date the franchisor announces the  
17 action that results in termination, cancellation, or nonrenewal  
18 of the line-make or (ii) the date the action that resulted in  
19 termination, cancellation, or nonrenewal of the line-make first  
20 became general knowledge. In determining the fair market value  
21 of a franchise for a line-make, if the line-make is not the  
22 only line-make for which the franchisee holds a franchise in the  
23 dealership facilities, the franchisee shall also be entitled to  
24 compensation for the contribution of the line-make to payment of  
25 the rent or to covering obligations for the fair rental value of

1 the franchise facilities for the period set forth in subdivision  
2 (b) of this subsection. Fair market value of the franchise for the  
3 line-make shall only include the goodwill value of the franchise  
4 for that line-make in the franchisee's community.

5 (b) If the line-make is the only line-make for which  
6 the franchisee holds a franchise, the manufacturer, distributor,  
7 or factory branch shall also pay assistance with respect to the  
8 franchise facilities leased or owned by the franchisee as follows:

9 (i) The manufacturer, distributor, or factory branch  
10 shall pay the franchisee a sum equivalent to the rent for the  
11 unexpired term of the lease or two years' rent, whichever is less;  
12 or

13 (ii) If the franchisee owns the franchise facilities,  
14 the manufacturer, distributor, or factory branch shall pay the  
15 franchisee a sum equivalent to the reasonable rental value of the  
16 franchise facilities for two years.

17 (c) To be entitled to franchise facilities assistance  
18 from the manufacturer, distributor, or factory branch, the  
19 franchisee shall have the obligation to mitigate damages by listing  
20 the franchise facilities for lease or sublease with a licensed real  
21 estate agent within thirty days after the effective date of the  
22 termination of the franchise and by reasonably cooperating with  
23 the real estate agent in the performance of the agent's duties and  
24 responsibilities. If the franchisee is able to lease or sublease  
25 the franchise facilities on terms that are consistent with local

1 zoning requirements to preserve the right to sell motor vehicles  
2 from the franchise facilities and the terms of the franchisee's  
3 lease, the franchisee shall be obligated to pay the manufacturer  
4 the net revenue received from such mitigation, but only following  
5 receipt of franchise facilities assistance payments pursuant to  
6 subdivision (3)(b) of this section and only up to the total amount  
7 of franchise facilities assistance payments that the franchisee has  
8 received.

9 (d) This subsection does not apply to the termination of  
10 a line-make by a franchisor of recreational vehicles.

11 ~~(3)~~ (4) This section shall not relieve a franchisee from  
12 ~~the~~ any other obligation to mitigate damages upon termination,  
13 cancellation, or noncontinuation of the franchise.

14 Sec. 80. Section 60-1432, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 60-1432 If a franchisor enters into or attempts to enter  
17 into a franchise, whether upon termination or refusal to continue  
18 another franchise or upon the establishment of an additional  
19 motor vehicle, combination motor vehicle and trailer, motorcycle,  
20 or trailer dealership in a community where the same line-make  
21 is then represented, without first complying with the ~~provisions~~  
22 ~~of Chapter 60, article 14,~~ Motor Vehicle Industry Regulation  
23 Act, no license under ~~Chapter 60, article 14,~~ the act shall be  
24 issued to that franchisee or proposed franchisee to engage in the  
25 business of selling motor vehicles, combination motor vehicles and

1 trailers, motorcycles, or trailers manufactured or distributed by  
2 that franchisor.

3 Sec. 81. Section 60-1436, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-1436 A manufacturer or distributor shall not require  
6 or coerce any new motor vehicle dealer in this state to do any of  
7 the following:

8 (1) Order or accept delivery of any new motor vehicle,  
9 part or accessory, equipment, or other commodity not required  
10 by law which was not voluntarily ordered by the new motor  
11 vehicle dealer. This section shall not be construed to prevent  
12 the manufacturer or distributor from requiring that new motor  
13 vehicle dealers carry a reasonable inventory of models offered for  
14 sale by the manufacturer or distributor;

15 (2) Offer or accept delivery of any new motor vehicle  
16 with special features, accessories, or equipment not included in  
17 the list price of the new motor vehicle as publicly advertised by  
18 the manufacturer or distributor;

19 (3) Participate monetarily in any advertising campaign or  
20 contest or purchase any promotional materials, display devices, or  
21 display decorations or materials at the expense of the new motor  
22 vehicle dealer;

23 (4) Join, contribute to, or affiliate with an advertising  
24 association;

25 ~~(4)~~ (5) Enter into any agreement with the manufacturer

1 or distributor or do any other act prejudicial to the new motor  
2 vehicle dealer by threatening to terminate a dealer agreement or  
3 any contractual agreement or understanding existing between the  
4 dealer and the manufacturer or distributor. Notice in good faith to  
5 any dealer of the dealer's violation of any terms or provisions of  
6 the dealer agreement shall not constitute a violation of ~~Chapter~~  
7 ~~60, article 14,~~ the Motor Vehicle Industry Regulation Act;

8 ~~(5)~~ (6) Change the capital structure of the new motor  
9 vehicle dealership or the means by or through which the dealer  
10 finances the operation of the dealership, if the dealership at  
11 all times meets any reasonable capital standards determined by the  
12 manufacturer in accordance with uniformly applied criteria;

13 ~~(6)~~ (7) Refrain from participation in the management of,  
14 investment in, or the acquisition of any other line of new motor  
15 vehicle or related products as long as the dealer maintains a  
16 reasonable line of credit for each make or line of vehicle, remains  
17 in compliance with reasonable facilities requirements, and makes no  
18 change in the principal management of the dealer;

19 ~~(7)~~ (8) Prospectively assent to a release, assignment,  
20 novation, waiver, or estoppel which would relieve any person from  
21 liability imposed by ~~Chapter 60, article 14,~~ the act or require any  
22 controversy between the new motor vehicle dealer and a manufacturer  
23 or distributor to be referred to a person other than the duly  
24 constituted courts of the state or the United States, if the  
25 referral would be binding upon the new motor vehicle dealer;

1           ~~(8)~~ (9) Change the location of the new motor vehicle  
2 dealership or make any substantial alterations to the dealership  
3 premises, if such changes or alterations would be unreasonable;

4           ~~(9)~~ (10) Release, convey, or otherwise provide customer  
5 information if to do so is unlawful or if the customer objects  
6 in writing to doing so, unless the information is necessary for  
7 the manufacturer, factory branch, or distributor to meet its  
8 obligations to consumers or the new motor vehicle dealer including  
9 vehicle recalls or other requirements imposed by state or federal  
10 law; and

11           ~~(10)~~ (11) Release to any unaffiliated third party  
12 any customer information which has been provided by the new  
13 motor vehicle dealer to the manufacturer except as provided in  
14 subdivision ~~(9)~~ (10) of this section;--

15           (12) Establish in connection with the sale of a motor  
16 vehicle prices at which the dealer must sell products or services  
17 not manufactured or distributed by the manufacturer or distributor,  
18 whether by agreement, program, incentive provision, or otherwise;  
19 or

20           (13) Underutilize the dealer's facilities by requiring  
21 or coercing a dealer to exclude or remove from the dealer's  
22 facilities operations for selling or servicing a line-make of motor  
23 vehicles for which the dealer has a franchise agreement to utilize  
24 the facilities, except that this subdivision does not prohibit a  
25 manufacturer from requiring exclusive sales facilities that are in

1 compliance with reasonable requirements for the facilities.

2 Any action prohibited for a manufacturer or distributor  
3 under the Motor Vehicle Industry Regulation Act is also prohibited  
4 for a subsidiary which is wholly owned or controlled by contract  
5 by a manufacturer or distributor or in which a manufacturer  
6 or distributor has more than a ten percent ownership interest,  
7 including a financing division.

8 Sec. 82. Section 60-1437, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 60-1437 In addition to the restrictions imposed by  
11 section 60-1436, a manufacturer or distributor shall not:

12 (1) Fail to deliver new motor vehicles or new motor  
13 vehicle parts or accessories within a reasonable time and in  
14 reasonable quantities relative to the new motor vehicle dealer's  
15 market area and facilities, unless the failure is caused by acts or  
16 occurrences beyond the control of the manufacturer or distributor  
17 or unless the failure results from an order by the new motor  
18 vehicle dealer in excess of quantities reasonably and fairly  
19 allocated by the manufacturer or distributor;

20 (2) Refuse to disclose to a new motor vehicle dealer the  
21 method and manner of distribution of new motor vehicles by the  
22 manufacturer or distributor;

23 (3) Refuse to disclose to a new motor vehicle dealer  
24 the total number of new motor vehicles of a given model which the  
25 manufacturer or distributor has sold during the current model year

1 within the dealer's marketing district, zone, or region, whichever  
2 geographical area is the smallest;

3 (4) Increase the price of any new motor vehicle which  
4 the new motor vehicle dealer had ordered and delivered to the same  
5 retail consumer for whom the vehicle was ordered, if the order  
6 was made prior to the dealer's receipt of the written official  
7 price increase notification. A sales contract signed by a private  
8 retail consumer and binding on the dealer shall constitute evidence  
9 of such order. In the event of manufacturer or distributor price  
10 reduction or cash rebate, the amount of any reduction or rebate  
11 received by a dealer shall be passed on to the private retail  
12 consumer by the dealer. Any price reduction in excess of five  
13 dollars shall apply to all vehicles in the dealer's inventory which  
14 were subject to the price reduction. A price difference applicable  
15 to a new model or series of motor vehicles at the time of the  
16 introduction of the new model or series shall not be considered a  
17 price increase or price decrease. This subdivision shall not apply  
18 to price changes caused by the following:

19 (a) The addition to a motor vehicle of required or  
20 optional equipment pursuant to state or federal law;

21 (b) In the case of foreign-made vehicles or components,  
22 revaluation of the United States dollar; or

23 (c) Any increase in transportation charges due to an  
24 increase in rates charged by a common carrier or other transporter;

25 ~~ex~~

1           (5) Fail or refuse to sell or offer to sell to all  
2 franchised new motor vehicle dealers in a line-make every new  
3 motor vehicle sold or offered for sale to any franchised new  
4 motor vehicle dealer of the same line-make. However, the failure  
5 to deliver any such new motor vehicle shall not be considered  
6 a violation of this section if the failure is due to a lack  
7 of manufacturing capacity or to a strike or labor difficulty, a  
8 shortage of materials, a freight embargo, or any other cause over  
9 which the franchisor has no control. A manufacturer or distributor  
10 shall not require that any of its new motor vehicle dealers  
11 located in this state pay any extra fee, purchase unreasonable or  
12 unnecessary quantities of advertising displays or other materials,  
13 or remodel, renovate, or recondition the new motor vehicle dealer's  
14 existing facilities in order to receive any particular model or  
15 series of vehicles manufactured or distributed by the manufacturer  
16 for which the dealers have a valid franchise. Notwithstanding  
17 the provisions of this subdivision, nothing contained in this  
18 section shall be deemed to prohibit or prevent a manufacturer  
19 from requiring that its franchised dealers located in this state  
20 purchase special tools or equipment, stock reasonable quantities  
21 of certain parts, or participate in training programs which are  
22 reasonably necessary for those dealers to sell or service any model  
23 or series of new motor vehicles. This subdivision shall not apply  
24 to manufacturers of recreational vehicles;--

25           (6) Fail to offer dealers of a specific line-make a

1 new franchise agreement containing substantially similar terms and  
2 conditions for sales of the line-make if the ownership of the  
3 manufacturer or distributor changes or there is a change in the  
4 plan or system of distribution;

5 (7) Take an adverse action against a dealer because the  
6 dealer sells or leases a motor vehicle that is later exported  
7 to a location outside the United States. A franchise provision  
8 that allows a manufacturer or distributor to take adverse action  
9 against a dealer because the dealer sells or leases a motor vehicle  
10 that is later exported to a location outside the United States is  
11 enforceable only if, at the time of the original sale or lease, the  
12 dealer knew or reasonably should have known that the motor vehicle  
13 would be exported to a location outside the United States. A dealer  
14 is presumed to have no knowledge that a motor vehicle the dealer  
15 sells or leases will be exported to a location outside the United  
16 States if, under the laws of a state of the United States (a)  
17 the motor vehicle is titled, (b) the motor vehicle is registered,  
18 and (c) applicable state and local taxes are paid for the motor  
19 vehicle. Such presumption may be rebutted by direct, clear, and  
20 convincing evidence that the dealer knew or reasonably should have  
21 known at the time of the original sale or lease that the motor  
22 vehicle would be exported to a location outside the United States.  
23 Except as otherwise permitted by subdivision (7) of this section,  
24 a franchise provision that allows a manufacturer or distributor to  
25 take adverse action against a dealer because the dealer sells or

1 leases a motor vehicle that is later exported to a location outside  
2 the United States is void and unenforceable;

3 (8) Discriminate against a dealer holding a franchise for  
4 a line-make of the manufacturer or distributor in favor of other  
5 dealers of the same line-make in this state by:

6 (a) Selling or offering to sell a new motor vehicle to  
7 a dealer at a lower actual price, including the price for vehicle  
8 transportation, than the actual price at which the same model  
9 similarly equipped is offered to or is available to another dealer  
10 in this state during a similar time period; or

11 (b) Using a promotional program or device or an  
12 incentive, payment, or other benefit, whether paid at the time  
13 of the sale of the new motor vehicle to the dealer or later,  
14 that results in the sale or offer to sell a new motor vehicle  
15 to a dealer at a lower price, including the price for vehicle  
16 transportation, than the price at which the same model similarly  
17 equipped is offered or is available to another dealer in this  
18 state during a similar time period. This subdivision shall not  
19 prohibit a promotional or incentive program that is functionally  
20 available to competing dealers of the same line-make in this state  
21 on substantially comparable terms; or

22 (9) Make any express or implied statement or  
23 representation directly or indirectly that the dealer is under  
24 any obligation whatsoever to offer to sell or sell any extended  
25 service contract or extended maintenance plan offered, sold,

1 backed by, or sponsored by the manufacturer or distributor or  
2 to sell, assign, or transfer any of the dealer's retail sales  
3 contracts or leases in this state on motor vehicles manufactured  
4 or sold by the manufacturer or distributor to a finance company  
5 or class of finance companies, leasing company or class of leasing  
6 companies, or other specified person, because of any relationship  
7 or affiliation between the manufacturer or distributor and the  
8 finance company or companies, leasing company or leasing companies,  
9 or the specified person or persons.

10 Any such statements, threats, promises, acts, contracts,  
11 or offers of contracts, when their effect may be to lessen or  
12 eliminate competition or tend to create a monopoly, are declared  
13 unfair trade practices and unfair methods of competition and are  
14 prohibited.

15 Sec. 83. Section 60-1438, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-1438 (1) Each new motor vehicle manufacturer or  
18 distributor shall specify in writing to each of its new motor  
19 vehicle dealers licensed in this state the dealer's obligations for  
20 preparation, delivery, and warranty service on its products. The  
21 manufacturer or distributor shall compensate the new motor vehicle  
22 dealer for warranty service which such manufacturer or distributor  
23 requires the dealer to provide. The manufacturer or distributor  
24 shall provide the new motor vehicle dealer with the schedule of  
25 compensation to be paid to the dealer for parts, work, and service

1 and the time allowance for the performance of the work and service.

2 (2) The schedule of compensation shall include reasonable  
3 compensation for diagnostic work, as well as repair service, parts,  
4 and labor. Time allowances for the diagnosis and performance of  
5 warranty work and service shall be reasonable and adequate for  
6 the work to be performed. In the determination of what constitutes  
7 reasonable compensation under this section, the principal factors  
8 to be given consideration shall be the prevailing wage rates being  
9 paid by dealers in the community in which the dealer is doing  
10 business, and in no event shall the compensation of the dealer for  
11 warranty parts and labor be less than the rates charged by the  
12 dealer for like parts and service to retail or fleet customers, as  
13 long as such rates are reasonable.

14 (3) A manufacturer or distributor shall not do any of the  
15 following:

16 (a) Fail to perform any warranty obligation;

17 (b) Fail to include in written notices of factory recalls  
18 to new motor vehicle owners and dealers the expected date by which  
19 necessary parts and equipment will be available to dealers for the  
20 correction of the defects; or

21 (c) Fail to compensate any of the new motor vehicle  
22 dealers licensed in this state for repairs effected by the recall.

23 (4) All claims made by a new motor vehicle dealer  
24 pursuant to this section for labor and parts shall be paid within  
25 thirty days after their approval. All claims shall be either

1 approved or disapproved by the manufacturer or distributor within  
2 thirty days after their receipt on a proper form generally used by  
3 the manufacturer or distributor and containing the usually required  
4 information therein. Any claim not specifically disapproved in  
5 writing within thirty days after the receipt of the form shall be  
6 considered to be approved and payment shall be made within thirty  
7 days. The manufacturer has the right to audit the claims for two  
8 years after payment and to charge back to the new motor vehicle  
9 dealer the amount of any false, or fraudulent, or unsubstantiated  
10 claim. A manufacturer may not deny a claim based solely on  
11 a dealer's incidental failure to comply with a specific claim  
12 processing requirement, such as a clerical error that does not put  
13 into question the legitimacy of the claim. If a claim is rejected  
14 for a clerical error, the dealer may resubmit a corrected claim in  
15 a timely manner.

16 (5) The warranty obligations set forth in this section  
17 shall also apply to any manufacturer of a new motor vehicle  
18 transmission, engine, or rear axle that separately warrants its  
19 components to customers.

20 Sec. 84. Section 60-1438.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 60-1438.01 (1) For purposes of this section, manufacturer  
23 or distributor includes (a) a factory representative or a  
24 distributor representative or (b) a person who is affiliated with a  
25 manufacturer or distributor or who, directly or indirectly through

1 an intermediary, is controlled by, or is under common control  
2 with, the manufacturer or distributor. A person is controlled by a  
3 manufacturer or distributor if the manufacturer or distributor has  
4 the authority directly or indirectly, by law or by agreement of the  
5 parties, to direct or influence the management and policies of the  
6 person. A franchise agreement with a Nebraska-licensed dealer which  
7 conforms to and is subject to ~~sections 60-1401.01 to 60-1440~~ the  
8 Motor Vehicle Industry Regulation Act is not control for purposes  
9 of this section.

10 (2) Except as provided in this section, a manufacturer or  
11 distributor shall not directly or indirectly:

12 (a) Own an interest in a franchise, franchisee, or  
13 consumer care or service facility, except that a manufacturer  
14 or distributor may hold stock in a publicly held franchise,  
15 franchisee, or consumer care or service facility so long as the  
16 manufacturer or distributor does not by virtue of holding such  
17 stock operate or control the franchise, franchisee, or consumer  
18 care or service facility;

19 (b) Operate or control a franchise, franchisee, or  
20 consumer care or service facility; or

21 (c) Act in the capacity of a franchisee.

22 (3) A manufacturer or distributor may own an interest in  
23 a franchisee or otherwise control a franchise for a period not to  
24 exceed twelve months after the date the manufacturer or distributor  
25 acquires the franchise if:

1           (a) The person from whom the manufacturer or distributor  
2 acquired the franchise was a franchisee; and

3           (b) The franchise is for sale by the manufacturer or  
4 distributor.

5           (4) For purposes of broadening the diversity of its  
6 franchisees and enhancing opportunities for qualified persons who  
7 lack the resources to purchase a franchise outright, but for no  
8 other purpose, a manufacturer or distributor may temporarily own  
9 an interest in a franchise if the manufacturer's or distributor's  
10 participation in the franchise is in a bona fide relationship with  
11 a franchisee and the franchisee:

12           (a) Has made a significant investment in the franchise,  
13 which investment is subject to loss;

14           (b) Has an ownership interest in the franchise; and

15           (c) Operates the franchise under a plan to acquire full  
16 ownership of the franchise within a reasonable time and under  
17 reasonable terms and conditions.

18           (5) On a showing of good cause by a manufacturer or  
19 distributor, the board may extend the time limit set forth in  
20 subsection (3) of this section. An extension may not exceed twelve  
21 months. An application for an extension after the first extension  
22 is granted is subject to protest by a franchisee of the same  
23 line-make whose franchise is located in the same community as the  
24 franchise owned or controlled by the manufacturer or distributor.

25           (6) The prohibition in subdivision (2)(b) of this section

1 shall not apply to any manufacturer of manufactured housing,  
2 recreational vehicles, or trailers.

3 Sec. 85. Section 60-1440, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 60-1440 (1) Any person who is or may be injured by a  
6 violation of ~~Chapter 60,~~ ~~article 14,~~ the Motor Vehicle Industry  
7 Regulation Act or any party to a franchise whose business or  
8 property is damaged by a violation of ~~Chapter 60,~~ ~~article 14,~~ the  
9 act relating to that franchise may bring an action for damages and  
10 equitable relief, including injunctive relief.

11 (2) When a violation of ~~Chapter 60,~~ ~~article 14,~~ the  
12 act can be shown to be willful or wanton, the court shall  
13 award damages. If the manufacturer engages in continued multiple  
14 violations of ~~Chapter 60,~~ ~~article 14,~~ the act, the court may, in  
15 addition to any other damages, award court costs and attorney's  
16 fees.

17 (3) A new motor vehicle dealer, if he or she has not  
18 suffered any loss of money or property, may obtain final equitable  
19 relief if it can be shown that a violation of ~~Chapter 60,~~ ~~article~~  
20 ~~14,~~ the act by a manufacturer may have the effect of causing such  
21 loss of money or property.

22 (4) If any action to enforce any of the provisions of  
23 ~~Chapter 60,~~ ~~article 14,~~ the act is brought by a new motor vehicle  
24 dealer against a manufacturer and the new motor vehicle dealer  
25 prevails, he or she shall be awarded reasonable attorney's fees and

1 the court shall assess costs against the manufacturer.

2 (5) If any dispute between a franchisor and franchisee  
3 becomes subject to resolution by means of binding arbitration,  
4 the provisions of ~~Chapter 60, article 14, the act~~ regulating the  
5 relationship of franchisor and franchisee shall apply in any such  
6 proceeding.

7 Sec. 86. Section 60-2602, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 60-2602 Whenever any wrecker or salvage dealer who is  
10 required to be licensed pursuant to ~~Chapter 60, article 14, the~~  
11 Motor Vehicle Industry Regulation Act acquires, after August 26,  
12 1983, any material which is or may have been a vehicle or major  
13 component part:

14 (1) ~~the~~ The wrecker or salvage dealer shall determine by  
15 means of a driver's license, state identification card, certificate  
16 of employer's federal identification number, or license issued by  
17 the board, the identity of the person or firm from whom such  
18 material is acquired; and

19 (2) ~~each~~ Each such wrecker or salvage dealer shall  
20 maintain a record of the following information:

21 (a) The name and address of the person or firm from whom  
22 such material was acquired;

23 (b) The means by which such person or firm was  
24 identified, including the number and issuing state of any driver's  
25 license or state identification card, the federal employer's

1 identification number, or the licensee's number issued by the  
2 board;

3 (c) A general description of the material acquired,  
4 including, but not limited to, if available and identifiable, the  
5 year, make, model, manufacturer's vehicle identification number,  
6 and any other identifying marks or numbers, of any vehicle or major  
7 component part; and

8 (d) The date of acquisition, the purchase price,  
9 including the value and description of any material traded, and the  
10 type of payment, including the number of any check or draft issued  
11 or received in exchange for such material.

12 Sec. 87. Section 60-2603, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 60-2603 Any wrecker or salvage dealer licensed by the  
15 board pursuant to ~~Chapter 60,~~ ~~article 14,~~ the Motor Vehicle  
16 Industry Regulation Act having possession on August 26, 1983,  
17 of both a salvage vehicle and a certificate of title for such  
18 vehicle, either issued to or assigned to such a person, shall not  
19 be required to obtain a salvage branded certificate of title for  
20 such vehicle except upon transfer of the vehicle to a person not  
21 required to be licensed as a wrecker or salvage dealer by the  
22 board.

23 Sec. 88. Section 60-2604, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 60-2604 Any wrecker or salvage dealer required to be

1 licensed by the board pursuant to ~~Chapter 60~~, ~~article 14~~, the  
2 Motor Vehicle Industry Regulation Act having possession on August  
3 26, 1983, of a major component part, shall include in his or her  
4 regular business records the information required to be recorded by  
5 subdivision (2) of section 60-2602, to the extent such information  
6 is available.

7           Sec. 89. Section 60-2701, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9           60-2701 As used in sections 60-2701 to 60-2709, unless  
10 the context otherwise requires:

11           (1) Consumer shall mean the purchaser, other than for  
12 purposes of resale, of a motor vehicle normally used for personal,  
13 family, household, or business purposes, any person to whom such  
14 motor vehicle is transferred for the same purposes during the  
15 duration of an express warranty applicable to such motor vehicle,  
16 and any other person entitled by the terms of such warranty to  
17 enforce the obligations of the warranty;

18           (2) Motor vehicle shall mean a new motor vehicle as  
19 defined in section ~~60-1401.02~~ 42 of this act which is sold in  
20 this state, excluding recreational vehicles as defined in section  
21 60-347; and

22           (3) Manufacturer's express warranty shall mean the  
23 written warranty, so labeled, of the manufacturer of a new motor  
24 vehicle.

25           Sec. 90. Section 71-4603, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           71-4603 For purposes of the Uniform Standard Code for  
3 Manufactured Homes and Recreational Vehicles, unless the context  
4 otherwise requires:

5           (1) Camping trailer means a vehicular portable unit  
6 mounted on wheels and constructed with collapsible partial side  
7 walls which fold for towing by another vehicle and unfold at the  
8 campsite to provide temporary living quarters for recreational,  
9 camping, or travel use;

10           (2) Commission means the Public Service Commission;

11           (3) Dealer means a person licensed by the state pursuant  
12 to ~~Chapter 60, article 14,~~ the Motor Vehicle Industry Regulation  
13 Act as a dealer in manufactured homes or recreational vehicles  
14 or any other person, other than a manufacturer, who sells, offers  
15 to sell, distributes, or leases manufactured homes or recreational  
16 vehicles primarily to persons who in good faith purchase or lease  
17 a manufactured home or recreational vehicle for purposes other than  
18 resale;

19           (4) Defect means a failure to conform to an applicable  
20 construction standard that renders the manufactured home or  
21 recreational vehicle or any component of the manufactured home or  
22 recreational vehicle not fit for the ordinary use for which it was  
23 intended but does not result in an unreasonable risk of injury or  
24 death to occupants;

25           (5) Distributor means any person engaged in the sale and

1 distribution of manufactured homes or recreational vehicles for  
2 resale;

3 (6) Failure to conform means a defect, a serious defect,  
4 noncompliance, or an imminent safety hazard related to the code;

5 (7) Fifth-wheel trailer means a unit mounted on wheels,  
6 designed to provide temporary living quarters for recreational,  
7 camping, or travel use, of such size or weight as not to require  
8 a special highway movement permit, of gross trailer area not to  
9 exceed four hundred square feet in the setup mode, and designed to  
10 be towed by a motorized vehicle that contains a towing mechanism  
11 that is mounted above or forward of the tow vehicle's rear axle;

12 (8) Gross trailer area means the total plan area measured  
13 on the exterior to the maximum horizontal projections of exterior  
14 wall in the setup mode and includes all siding, corner trims,  
15 moldings, storage spaces, expandable room sections regardless of  
16 height, and areas enclosed by windows but does not include roof  
17 overhangs. Storage lofts contained within the basic unit shall  
18 have ceiling heights less than five feet and shall not constitute  
19 additional square footage. Appurtenances, as defined in subdivision  
20 (2)(k) of section 60-6,288, shall not be considered in calculating  
21 the gross trailer area as provided in such subdivision;

22 (9) Imminent safety hazard means a hazard that presents  
23 an imminent and unreasonable risk of death or severe personal  
24 injury;

25 (10) Manufactured home means a structure, transportable

1 in one or more sections, which in the traveling mode is eight body  
2 feet or more in width or forty body feet or more in length or when  
3 erected on site is three hundred twenty or more square feet and  
4 which is built on a permanent chassis and designed to be used as  
5 a dwelling with or without a permanent foundation when connected  
6 to the required utilities and includes the plumbing, heating, air  
7 conditioning, and electrical systems contained in the structure,  
8 except that manufactured home includes any structure that meets  
9 all of the requirements of this subdivision other than the size  
10 requirements and with respect to which the manufacturer voluntarily  
11 files a certification required by the United States Secretary  
12 of Housing and Urban Development and complies with the standards  
13 established under the National Manufactured Housing Construction  
14 and Safety Standards Act of 1974, as such act existed on September  
15 1, 2001, 42 U.S.C. 5401 et seq.;

16 (11) Manufactured-home construction means all activities  
17 relating to the assembly and manufacture of a manufactured home,  
18 including, but not limited to, activities relating to durability,  
19 quality, and safety;

20 (12) Manufactured-home safety means the performance of a  
21 manufactured home in such a manner that the public is protected  
22 against any unreasonable risk of the occurrence of accidents due  
23 to the design or construction of such manufactured home or any  
24 unreasonable risk of death or injury to the user or to the public  
25 if such accidents do occur;

1           (13) Manufacturer means any person engaged in  
2 manufacturing, assembling, or completing manufactured homes or  
3 recreational vehicles;

4           (14) Motor home means a vehicular unit primarily designed  
5 to provide temporary living quarters which are built into an  
6 integral part of, or permanently attached to, a self-propelled  
7 motor vehicle chassis or van, containing permanently installed  
8 independent life-support systems that meet the state standard  
9 for recreational vehicles and providing at least four of  
10 the following facilities: Cooking; refrigeration or ice box;  
11 self-contained toilet; heating, air conditioning, or both; a  
12 potable water supply system including a faucet and sink; separate  
13 one-hundred-twenty-nominal-volt electrical power supply; or LP gas  
14 supply;

15           (15) Noncompliance means a failure to comply with an  
16 applicable construction standard that does not constitute a defect,  
17 a serious defect, or an imminent safety hazard;

18           (16) Park trailer means a vehicular unit which meets the  
19 following criteria:

20           (a) Built on a single chassis mounted on wheels;

21           (b) Designed to provide seasonal or temporary living  
22 quarters which may be connected to utilities necessary for  
23 operation of installed fixtures and appliances;

24           (c) Constructed to permit setup by persons without  
25 special skills using only hand tools which may include lifting,

1 pulling, and supporting devices; and

2 (d) Having a gross trailer area not exceeding four  
3 hundred square feet when in the setup mode;

4 (17) Person means any individual, partnership, limited  
5 liability company, company, corporation, or association engaged in  
6 manufacturing, selling, offering to sell, or leasing manufactured  
7 homes or recreational vehicles;

8 (18) Purchaser means the first person purchasing a  
9 manufactured home or recreational vehicle in good faith for  
10 purposes other than resale;

11 (19) Recreational vehicle means a vehicular type unit  
12 primarily designed as temporary living quarters for recreational,  
13 camping, or travel use, which unit either has its own motive power  
14 or is mounted on or towed by another vehicle. Recreational vehicle  
15 includes, but is not limited to, travel trailer, park trailer,  
16 camping trailer, truck camper, motor home, and van conversion;

17 (20) Seal means a device or insignia issued by the  
18 Department of Health and Human Services Regulation and Licensure  
19 prior to May 1, 1998, or by the Public Service Commission on  
20 or after May 1, 1998, to be displayed on the exterior of a  
21 manufactured home or recreational vehicle to evidence compliance  
22 with state standards. The federal manufactured-home label shall be  
23 recognized as a seal;

24 (21) Serious defect means a failure to conform to an  
25 applicable construction standard that renders the manufactured home

1 or recreational vehicle or any component of the manufactured home  
2 or recreational vehicle not fit for the ordinary use for which it  
3 was intended and which results in an unreasonable risk of injury or  
4 death to the occupants;

5 (22) Travel trailer means a vehicular unit mounted  
6 on wheels, designed to provide temporary living quarters for  
7 recreational, camping, or travel use of such size or weight as  
8 not to require special highway movement permits when towed by a  
9 motorized vehicle and of gross trailer area less than four hundred  
10 square feet;

11 (23) Truck camper means a portable unit constructed to  
12 provide temporary living quarters for recreational, travel, or  
13 camping use, consisting of a roof, floor, and sides and designed to  
14 be loaded onto and unloaded from the bed of a pickup truck; and

15 (24) Van conversion means a completed vehicle permanently  
16 altered cosmetically, structurally, or both which has been  
17 recertified by the state as a multipurpose passenger vehicle  
18 but which does not conform to or otherwise meet the definition  
19 of a motor home in this section and which contains at  
20 least one plumbing, heating, or one-hundred-twenty-nominal-volt  
21 electrical component subject to the provisions of the state  
22 standard for recreational vehicles. Van conversion does not  
23 include any such vehicle that lacks any plumbing, heating, or  
24 one-hundred-twenty-nominal-volt electrical system but contains an  
25 extension of the low-voltage automotive circuitry.

1                   Sec. 91. Original sections 25-2602.01, 28-1316, 44-3526,  
2 60-1401.01, 60-1402, 60-1403, 60-1403.01, 60-1404, 60-1405,  
3 60-1406, 60-1407, 60-1407.01, 60-1407.02, 60-1407.03, 60-1407.04,  
4 60-1411.03, 60-1415, 60-1415.01, 60-1417.02, 60-1420, 60-1421,  
5 60-1422, 60-1427, 60-1428, 60-1430, 60-1430.01, 60-1430.02,  
6 60-1432, 60-1436, 60-1437, 60-1438, 60-1438.01, 60-1440, 60-2602,  
7 60-2603, 60-2604, and 71-4603, Reissue Revised Statutes of  
8 Nebraska, sections 60-194, 60-373, 60-375, 60-380, 60-381,  
9 60-3,116, 60-1411.01, 60-1411.02, and 60-2701, Revised Statutes  
10 Cumulative Supplement, 2008, sections 60-144, 60-164, and  
11 60-1401.02, Revised Statutes Supplement, 2009, and section 60-1409,  
12 Reissue Revised Statutes of Nebraska, as amended by section 36,  
13 Legislative Bill 3, One Hundred First Legislature, First Special  
14 Session, 2009, are repealed.

15                   Sec. 92. Since an emergency exists, this act takes effect  
16 when passed and approved according to law.